

Submission 166 (Sohan S Sahota, September 14, 2011)



CALIFORNIA  
 High-Speed Rail Authority

Comment Period  
 Extended to  
 October 13, 2011

Comment Card  
 Tarjeta de Comentarios

**Merced to Fresno High-Speed Train Section** / **Tren de Alta Velocidad Sección Merced a Fresno**  
 Draft Environmental Impact Report/ Anteproyecto del Informe de Impacto  
 Environmental Impact Statement (EIR/EIS) – Medioambiental/Declaración de Impacto  
**Public Hearings** / Medioambiental (EIR/EIS) - **Audiencias Públicas**  
 September 2011 / Septiembre 2011

Please submit your completed comment card at the end of the meeting, or mail to: Por favor entregue su tarjeta al final de la reunión, o envíela a una de las siguientes direcciones:

**Merced to Fresno HST Environmental Review, 770 L Street, Suite 800, Sacramento, CA 95814**

The comment period on the Draft EIR/EIS begins August 15, 2011 and ends September 28, 2011. El periodo a hacer comentarios empieza a 15 de agosto y termina a 28 de septiembre. Comentarios received after **September 28, 2011** will not be addressed in the Final EIR/EIS. recibidos después de **28 de septiembre** no se responderá en el EIR/EIS final.

Name/ SOHAN S SAHOTA Organization/ Organización: \_\_\_\_\_  
 Nombre: \_\_\_\_\_

(Optional/Opcional) Address/Domicilio: 8499 MONTECRISTO, LIVERMORE, CA 94534 Phone Number/ Número de teléfono: \_\_\_\_\_

City, State, Zip code/ Ciudad, estado, código postal: \_\_\_\_\_ Email address/ Correo electrónico: \_\_\_\_\_

166-1

ASK TO START & FINISH SOON

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## Response to Submission 166 (Sohan S Sahota, September 14, 2011)

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### **166-1**

Construction of the Initial Operating Section begins with the Initial Construction Section, or ICS—a 130-mile system “spine” through the Central Valley. The ICS would become the first high-speed rail test track in the nation. The federal government has already provided funding for the ICS, and state funding can be used to match it, allowing construction to begin in late 2012 or 2013, with completion in 2017. HSR construction for Phase 1 will begin in 2012 assuming approval of a state appropriations request to use Proposition 1A bond proceeds to match federal funds, laying the foundation for HSR with the ICS in the Central Valley.



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## Response to Submission 167 (Socimo Sanchez, September 14, 2011)

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**167-1**

See MF-Response-GENERAL-10. Also see Chapter 7 Preferred Alternative of the EIR/EIS which summarizes the relative differences between the alternatives and identifies the Hybrid Alternative as the preferred alternative for the Merced to Fresno Section.

**167-2**

See MF-Response-GENERAL-4.

Submission 706 (Christian Scheuring, October 13, 2011)



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October 13, 2011

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California High-Speed Rail Authority  
Fresno to Bakersfield Draft EIR/EIS Comments  
770 L Street, Suite 800  
Sacramento, CA 95814

California High-Speed Rail Authority  
Merced to Fresno Draft EIR/EIS Comments  
770 L Street, Suite 800  
Sacramento, CA 95814

Re: Public Comments on the Draft EIR/EISs for the Merced to Fresno and Fresno to Bakersfield Sections of the California High-Speed Train Project

To Whom It May Concern:

The California Farm Bureau Federation (“CFBF”) appreciates the opportunity to provide the following comments on the Draft Environmental Impact Report/Environmental Impact Statement (“Draft EIR/EIS”) released for the Merced to Fresno segment of the proposed California High-Speed Train System (“CHSTS”), as well as for the Fresno to Bakersfield segment of the same. Because voluminous Draft EIR/EISs for both segments were released simultaneously by the California High-Speed Rail Authority (“Authority” or “HSRA”) for a very minimal review period, and because of CFBF’s comments and concerns with respect to each of the segments are in many instances overlapping, this comment letter is submitted simultaneously as to each Draft EIR/EIS.

CFBF is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home and the rural community. CFBF is California’s largest farm organization, comprised of 53 county Farm Bureaus currently representing approximately 76,500 agricultural and associate members in 56 counties, including

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thousands of members within the six counties directly affected by any Merced to Bakersfield alignment of CHSTS. CFBF strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California’s resources.

CFBF has unsuccessfully requested, by letter of September 26, 2011, additional time for public review of the Authority’s plans between Merced and Bakersfield. As a multi-billion dollar swath of public infrastructure across the California landscape which will likely be visible from low earth orbit for generations to come, CHSTS is worthy of a much more deliberate and considered period of public review than the minimum time periods set forth by law under the California Environmental Quality Act (“CEQA”) and the National Environmental Policy Act (“NEPA”). Making decisions about the design and construction of CHSTS on a minimal timeframe in the face of what the Draft EIR/EISs disclose are allegedly “unavoidable” environmental impacts to a wide array of resources is, at best, a nod in the direction of the public as the Authority pursues funding exigencies which have no relation to CEQA or NEPA, or to the physical resources they are intended to protect. Farmers and ranchers within the San Joaquin Valley deserve better.

CFBF provides the following detailed comments for the Authority’s consideration:

**I. Project Purpose, Need, and Objectives**

**A. The EIR/EIS Contains a Legally Inadequate Project Purpose, Need, and Description**

CEQA requires an EIR to have an accurate and stable project description.<sup>1</sup> “Among other things, a project description must include a clear statement of ‘the objectives sought by the proposed project,’ which will help the lead agency ‘develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary.’”<sup>2</sup> The description must also include “[a] general description of the project’s technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.”<sup>3</sup> As part of the project description, an EIR is to also contain:

A statement of objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the

<sup>1</sup> *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 199. “[A]n accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR.”

<sup>2</sup> *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4<sup>th</sup> 645, 654-655 quoting Cal. Code Regs., tit. 14, § 15124(b).

<sup>3</sup> Cal. Code Regs., tit. 14, § 15124(c).

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decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project.<sup>4</sup>

The identification of the project objectives is crucial to the proper consideration and analysis of the project, especially, development of a reasonable range of alternatives to be evaluated in the EIR. As stated in the seminal "project description" interpretation of *County of Inyo v. City of Los Angeles*, *supra*, 71 Cal.App.3d at pp. 192-193:

A curtailed or distorted project description may stultify the objective of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposals benefit against its environmental cost, consider mitigation measures, assess the advantages of terminating the proposal (i.e., the "no project" alternative) and weigh other alternatives in the balance.

The adequacy of an EIR's project description is closely linked to the adequacy of the impact analyses.<sup>5</sup> More specifically, the project description provides the analytical foundation for the entire EIR. It is therefore essential that the EIR has an accurate, well-conceived, stable, and finite project description. Thus, if the description is inadequate because it fails to discuss an aspect of the project, the environmental analysis will most likely reflect the same mistake.<sup>6</sup> As demonstrated below, a distorted project description truncates both the assessment of impacts and consideration of meaningful alternatives.

Under NEPA, similar to the requirements laid out by CEQA, the EIS must include a discussion specifying the underlying purpose and need of the project.<sup>7</sup> The purpose and need delineate the range of alternatives to be discussed and evaluated in order to allow for the proper review of an appropriate range of alternatives.<sup>8</sup> The purpose and need must be properly defined; "if the agency constricts the definition of the project's purpose and thereby excludes what truly are reasonable alternatives, the EIS cannot fulfill its role. Nor can the agency satisfy the Act."<sup>9</sup>

<sup>4</sup> Cal. Code Regs., tit. 14, § 15124(b) (emphasis added); *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1163, overturned on other grounds.

<sup>5</sup> *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.3d 713, 722-723.

<sup>6</sup> *Ibid.*

<sup>7</sup> 40 C.F.R. § 1502.13.

<sup>8</sup> 42 U.S.C. § 4321 et seq.; 40 C.F.R. § 1502.13; *Stop The Pipeline v. White* (2002) 233 F.Supp.2d 957, 970-71; *Simmons v. U.S. Army Corps of Engineers* (7th Cir. 1997) 120 F.3d 664, 666, [In preparing an environmental impact statement under NEPA, a federal agency must first define the project's purpose before it can delimit what "reasonable alternatives" are.]

<sup>9</sup> *Simmons*, *supra*, 120 F.3d at p. 666.

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As evidenced in both Acts, the foundation of a proper EIR/EIS rests in the definition of the project's purpose, need, and objectives. As explained herein, the Merced-Fresno and Bakersfield EIR/EISs conflict with the basic tenets of its purpose, need, and objectives by negatively impacting agricultural lands, designing project routes which deviate from existing transportation corridors, designing a project that is growth inducing, and deviating from the express intent of voters who approved Proposition 1A.

B. State and Federal Laws and Policies Promoting Preservation of Agricultural Resources and Discouraging Urban Sprawl

1. Agricultural Resources Must Be Considered During Environmental Review

Agricultural resources are an important feature of the existing environment of the State, and are protected under federal policies, such as the Farmland Protection Policy Act and NEPA, state policies, and CEQA. Agriculture is the number one industry in California, which is the leading agricultural state in the nation.<sup>10</sup> Agriculture is one of the foundations of this state's prosperity, providing employment for one in 10 Californians and a variety and quantity of food products that both feed the nation and provide a significant source of exports.<sup>11</sup> In 1889, the State's 14,000 farmers irrigated approximately one million acres of farmland between Stockton and Bakersfield. By 1981, the number of acres in agricultural production had risen to 9.7 million.<sup>12</sup> More recently, the amount of agricultural land in the state has declined. From 1982 to 1992, more than a million acres of farmland were lost to other uses. Between 1994 and 1996, another 65,827 acres of irrigated farmland were lost, and this trend is expected to continue.

In order to preserve agriculture and ensure a healthy farming industry, the Legislature has declared that "a sound natural resource base of soils, water, and air" must be sustained, conserved, and maintained.<sup>13</sup> Prior to converting agricultural lands to other uses, decision makers must consider the impacts to the agricultural industry, the state as a whole, and "the residents of this state, each of whom is directly and indirectly affected by California agriculture."<sup>14</sup>

Both NEPA and CEQA require analysis of significant environmental impacts and irreversible changes resulting from proposed projects. These include unavoidable impacts; direct, indirect, and cumulative effects; irreversible and irretrievable commitment of resources;

<sup>10</sup> Food & Agr. Code, § 802 subd. (a).

<sup>11</sup> CALFED Final Programmatic EIS/EIR, July 2000, pg. 7.1-1.

<sup>12</sup> Littleworth & Garner, *California Water II* (Solano Press Books 2007) p. 8.

<sup>13</sup> Food & Agr. Code, § 802 subd. (g).

<sup>14</sup> Food & Agr. Code, § 803.

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relationships between short-term uses and long-term productivity; and growth-inducing impacts to the environment. In both CEQA and NEPA, the physical environment includes agricultural lands and resources. Given the national and statewide importance of agriculture and the legal requirements of environmental review, Farm Bureau urges the Agencies to properly assess all direct, indirect, and cumulative effects on the agricultural environment resulting from the proposed project in the EIR/EIS.

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It is advisable that evaluations and analyses of prospective farmland conversion impacts be made early in the planning process before a site or design is selected, and that, where possible, agencies make the FPPA evaluations part of the National Environmental Policy Act (NEPA) process.<sup>21</sup>

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- 2. Agricultural Resources Must be Considered in a Legally Defensible NEPA Review
  - a) Farmland Protection Policy Act

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- b) National Environmental Policy Act (NEPA)

As a result of substantial decreases in the amount of open farmland, Congress enacted the Farmland Protection Policy Act ("FPPA") in 1981 as part of the Agriculture and Food Act (final rules and regulations were published in the Federal Register on June 17, 1994).<sup>15</sup> In its statement of purpose, the FPPA aims to minimize the extent to which federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses. Projects are subject to FPPA requirements if they may irreversibly convert farmland (directly or indirectly) to nonagricultural use and are completed by a Federal agency or with assistance from a Federal agency.<sup>16</sup> Such projects shall also be administered in a manner compatible with local government and private programs and policies to protect farmland.<sup>17</sup>

In addition to the FPPA, NEPA itself requires review of the agricultural environment. Title I of NEPA contains a Declaration of National Environmental Policy which requires the federal government to use all practicable means to create and maintain conditions under which man and the environment, including the agricultural environment, can exist in productive harmony.<sup>22</sup> Section 102<sup>23</sup> requires federal agencies to incorporate environmental considerations in their planning and decision-making through a systematic interdisciplinary approach.<sup>24</sup> Specifically, all federal agencies are to prepare detailed statements assessing and evaluating the environmental impact of and alternatives to major federal actions significantly affecting the environment.<sup>25</sup>

To help assist federal agencies in minimizing the loss of farmland, guidelines were developed.<sup>18</sup> Prior to progressing with the project, the Agencies should review these guidelines and incorporate the criteria into their NEPA analysis.<sup>19</sup>

Given the magnitude and scope of the proposed high-speed train project, significant environmental impacts, including direct, indirect, and cumulative effects, will occur. In determining "significance" under NEPA, the discussion in the EIR/EIS should focus on the "context" and the "intensity" of the impacts.<sup>26</sup> Under NEPA, context "means that the significance of an action must be analyzed in several contexts such as society as whole (human,

As stated above and as provided in the Act, each Federal agency shall use the criteria provided in § 658.5 to identify and take into account the adverse effects of Federal programs on the protection of farmland. *The agencies are to consider alternative actions, as appropriate, that could lessen such adverse effects*, and assure that such Federal programs, to the extent practicable, are compatible with State, unit of local government and private programs and policies to protect farmland.<sup>20</sup>  
[...]

<sup>21</sup> 7 C.F.R. § 658.4 subd. (e).

<sup>22</sup> 42 U.S.C. §§ 4321 et seq.

<sup>23</sup> Among other things, Section 102(2) of NEPA requires agencies to:

(C) Include in every recommendation or report on proposals for legislation and other major Federal Actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on –

- (i) The environmental impact of the proposed action,
- (ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) Alternatives to the proposed action,
- (iv) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;...

(E) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. (42 U.S.C § 4332(2)(C), § 4322(2)(E).)

<sup>24</sup> 42 U.S.C § 4332(2).

<sup>25</sup> *Id.*

<sup>26</sup> 40 C.F.R. § 1508.27.

<sup>15</sup> 7 U.S.C. §§ 4201 et seq.

<sup>16</sup> 7 U.S.C. § 4201.

<sup>17</sup> 7 C.F.R. § 658.4.

<sup>18</sup> See 7 C.F.R. §§ 658.1 et seq.

<sup>19</sup> Agencies are to integrate the NEPA reviews with other agency planning and review processes, and coordinate with other federal agencies and with similar state processes when appropriate. (40 C.F.R. § 1500.2 subd. (c); 40 C.F.R. § 1506.2.)

<sup>20</sup> 7 C.F.R. § 658.4, emphasis added.

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national), the affected regions, the affected interests, and the locality.”<sup>27</sup> Intensity is measured, in part, by considering: (1) unique characteristics of a geographic area such as proximity to historic or cultural resources, parkland, prime farmlands, wetlands, wild and scenic rivers, or ecological critical areas; (2) the degree which the effects on the quality of the human environment are likely to be highly controversial; (3) the degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principal about a future consideration; (4) whether the action is related to other actions with individually insignificant but cumulatively significant impacts; (5) whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment.<sup>28</sup>

CFBF would like to caution the Agencies against overlooking their obligation to consider impacts to agricultural resources, as many federal agencies have made this mistake in the past. On August 30, 1976 the Council on Environmental Quality (“CEQ”) issued a memorandum to federal agencies informing them of the need to consider farmland loss as a potentially significant environmental impact. On August 20, 1980, the CEQ issued the following additional guidance to the heads of agencies regarding losses of agricultural lands because:

Approximately one million acres of prime and unique agricultural lands are being converted irreversibly to non-agricultural uses each year. Actions by federal agencies such as construction activities, development grants and loans, and **federal land management decisions** frequently contribute to the loss of prime and unique agricultural lands directly and indirectly. Often these losses are unintentional and are not necessarily related to accomplishing the agency’s mission.<sup>29</sup>

For this reason, the CEQ advised:

If an agency determines that a proposal significantly affect[s] the quality of the human environment, it must initiate the scoping process [cite omitted] to identify those issues, **including effects on prime or unique agricultural lands, that will be analyzed and considered, along with the alternatives available to avoid or mitigate adverse effects.**... The effects to be studied include ‘growth inducing effects and other effects related to inducing changes in the patterns of land use...cumulative effects...mitigation measures...to lessen the impact on...agricultural lands.’<sup>30</sup>

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> 45 Fed. Reg. 59189, *emphasis added* (see copy of document attached marked Attachment A).

<sup>30</sup> *Id.*, *emphasis added* (attached).

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Clearly then, in light of this guidance, the Agencies must consider agricultural resources as part of the physical environment when undertaking its NEPA analysis of alternatives, direct and indirect impacts, cumulative impacts, and mitigation alternatives within the EIR/EIS.

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c) Agricultural Resources Must Be Considered In A Legally Defensible CEQA Review

One of the major principles of the State’s environmental and agricultural policy is to sustain the long-term productivity of the State’s agriculture by conserving and protecting the soil, water, and air that are agriculture’s basic resources.<sup>31</sup> As currently proposed, the HSR project alternatives will convert agricultural lands to other uses. This conversion would add to the existing statewide conversion of substantial amounts of agricultural lands to other uses, and may conflict with adopted plans of many local governments, including cities and counties, and existing habitat conservation plans or natural community conservation plans.

The Agencies must consider the fact that CEQA also recognizes agricultural land and water resources as a part of the physical environment. Any and all adverse environmental effects on agricultural resources resulting from the project, as well as cumulative impacts that will occur over time, must be fully assessed and disclosed under CEQA, as well as avoided or mitigated as required by CEQA.

In CEQA, “[s]ignificant effect on the environment” means, “a substantial, or potentially substantial, adverse change in the environment.”<sup>32</sup> The CEQA Guidelines make it clear the “environment” in question encompasses, “any physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise and objects of historic or aesthetic significance.”<sup>33</sup> For further guidance as to the exact meaning of “significance,” the CEQA Guidelines provide a list of 29 general effects that will cause a project to “normally have a significant effect on the environment.”<sup>34</sup>

Of particular relevance is CEQA Guidelines Appendix G, section II, Agricultural Resources, which states the following:

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agriculture Land Valuation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optimal model to use in assessing impacts on agriculture and farmland. Would the project:

<sup>31</sup> Food & Agr. § 821 subd. (c).

<sup>32</sup> Pub. Resources Code, § 21068.

<sup>33</sup> Pub. Resources Code, § 21060.5.

<sup>34</sup> Cal. Code Regs., tit. 14, § 15000 et seq. (“CEQA Guidelines, Appendix G).



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- (a) Convert prime farmland, unique farmland, or farmland of state-wide importance . . . to non-agricultural use?
- (b) Conflict with existing zoning for agricultural use or a Williamson Act contract?
- (c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland to non-agricultural use?

Although the Draft EIR/EISs contain sections analyzing impacts to the agricultural environment, this analysis is largely limited to impacts involving direct conversion of agricultural lands. However, as discussed in greater detail below, direct conversion of a certain acreage of farmland within the project footprint is not the only significant impact the project will have on agriculture.

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C. Language of Proposition 1A as Approved by Voters

California voters approved Proposition 1A, denominated the "Safe, Reliable High-Speed Passenger Train Bond Act," in November of 2008 ("Proposition 1A"). Proposition 1A authorizes the selling of \$9.95 billion in general obligation bonds, to plan and partially fund construction of a high-speed train system, eventually connecting California's major metropolitan areas from San Diego to Sacramento and the San Francisco Bay Area. As approved by the California electorate in 2008, and as presently codified in California Streets and Highways Code, Proposition 1A includes express provisions that the California High-Speed Train Project ("HSTP") be designed to achieve a number of very specific objectives, including the express requirements that:

1. "In order to *reduce impacts on communities and the environment*, the alignment for the high-speed train system shall follow existing transportation or utility corridors...."
2. "Stations should be located in areas with good access to local mass transit and other modes of transportation."
3. "The high-speed train system shall be *planned and constructed in a manner that minimizes urban sprawl and impacts on the natural environment*."
4. "[The HSRP should] *preserve] wildlife corridors and [mitigate] impacts to wildlife movement where feasible as determined by the authority in order to limit the extent to which the system may present an additional barrier to wildlife's natural movement.*"<sup>35</sup>

<sup>35</sup> See Safe, Reliable High-Speed Passenger Train Bond Act at § 2704.09 ("Proposition 1A," as approved by voters, Gen. Elec. (Nov. 8, 2008) (Sts. & Hy. Code, § 2704, et seq.).

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D. Joint HSRA-FRA Statement of Purpose, Need and Objectives

As jointly defined by the California High-Speed Rail Authority ("HSRA") and the Federal Railroad Administration ("FRA"), the purpose of the HSTP is, first, "to provide a reliable high-speed electric-powered train system that links the major metropolitan areas of the state, and that delivers predictable and consistent travel times" and, second, "to provide an interface with commercial airports, mass transit, and the highway network and to relieve capacity constraints of the existing transportation system as increases in intercity travel demand in California occur, in a manner sensitive to and protective of California's unique natural resources."<sup>36</sup>

The need for the HSTP, as jointly defined by the HSRA and the FRA, is essentially, "[t]he need for improvements to intercity travel in California, including intercity travel between the south San Joaquin Valley, the Bay Area, Sacramento, and Southern California." This need, in turn, relates to various issues including "[f]uture growth in demand for intercity travel, including the growth in demand within the south San Joaquin Valley," and "[p]oor and deteriorating air quality and pressure on natural resources and agricultural lands as a result of expanded highways and airports and urban development pressures, including those within the south San Joaquin Valley."<sup>37</sup>

Express objectives and policies of the HSTP jointly defined by the HSRA and the FRA include the objectives to "[m]aximize the use of existing transportation and rights-of-way to the extent feasible," and to "provide intercity travel in a manner sensitive to and protective of the region's natural and agricultural resources...."<sup>38</sup>

E. Proposition 1A and the HSRA's and the FRA's Adopted Statement of Purpose, Need, and Objectives Require Selection of Alternatives that Maximize Utilization of Existing Transportation and Utility Corridors, as well as Alternatives That Minimize Impacts On Agricultural and Natural Resources

As noted, the express language of Proposition 1A as approved by California voters requires the preferred selection of HSTP alternatives that (1) make maximal use of existing transportation, utility and right-of-way corridors; (2) minimize impacts to natural resources (including, by extension, wildlife habitats and migration corridors, agricultural lands and open space); and (3) alleviate and prevent additional urban sprawl and worsened congested conditions on our existing roadways and in our airports. The HSRA's adopted statement of purpose, need, and objectives largely mirror these objectives—and, in some respects, make them more explicit.

<sup>36</sup> See Draft California High-Speed Train Project EIR/EIS, Merced to Fresno Section ("Merced-Fresno Draft EIR/EIS") at 1-3 through 1-4 [emphasis added]; Draft California High-Speed Train Project EIR/EIS, Fresno to Bakersfield Section ("Fresno-Bakersfield Draft EIR/EIS") at 1-4 [emphasis added].

<sup>37</sup> See Merced Draft EIR/EIS at 1-5; Fresno Bakersfield Draft EIR/EIS at 1-7 [emphasis added].

<sup>38</sup> See *ibid.*

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Additionally, as noted above, various state and federal laws and policies recognize the importance of preserving productive farmland and of protecting sensitive and threatened species and their habitats from encroachment by incompatible uses.

These clear directives of voter intent, state and federal law, and the HSRA's and the FRA's own statement of its project purpose and need amount to significant and unmistakable constraining limitations on the Agencies' selection of a preferred alternative for both the Merced-Fresno and Fresno-Bakersfield alignments of the HSTP. Prior to mitigation, an agency's project design and selection of alternatives provide perhaps the best and most effective means to avoid and minimize adverse impacts to sensitive resources, while at the same meeting the purpose, need, and specific objectives of the project.<sup>39</sup> The HSRA's directives on urban sprawl and congestion, agricultural lands and natural resources, and alignment within existing transportation, utility, and right-of-way corridors are so unequivocal that, even considered on balance with other competing objectives or directives for the project, any alternative that *did not* represent the *maximum* fulfillment of these objectives would be *per se* incompatible with these basic directives for the project.

For these reasons, as discussed in greater detail below, the HSRA and the FRA *must* adopt, as fundamental considerations bearing on final selection of their preferred alternatives for the Merced-Fresno and Fresno-Bakersfield alignments of the HSTP, the express requirements that those alignments (1) make maximal use of existing transportation, utility, and right-of-way corridors; (2) avoid impacts to agricultural land, natural resources, and sensitive habitats to greatest extent possible; and (3) provide and ensure the most effective means of promoting the project's stated objectives to reduce and alleviate urban sprawl and congested conditions on existing roadways and in existing airports.

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- F. The HSRA's and the FRA's Selection of the Preferred Alternatives Must Not Be Based Solely on the Direct Cost of the Alternative in Isolation from the Alternative's Indirect Economic and Relative Environmental Impacts

Proposition 1A provides that, "in order to reduce impacts on communities and the environment, the alignment for the high-speed train system *shall* follow existing transportation or utility corridors..."<sup>40</sup> In addition, the HSRA's express mandate that the HSTP must follow existing transportation, utility, and right-of-way corridors is implicit in the separate mandates that the HSTP's alignment "reduce impacts on communities and the environment," "be planned and constructed in a manner that minimizes urban sprawl and impacts on the natural environment," "[p]reserve] wildlife corridors and mitigating impacts to wildlife movement," and

<sup>39</sup> See Cal. Code Regs., tit. 14, §§ 15123(b)(1); 15126.6(a).

<sup>40</sup> See Safe, Reliable High-Speed Passenger Train Bond Act, *supra*, at § 2704.09.

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limit the extent to which the system may present an additional barrier to wildlife's natural movement."<sup>41</sup>

The HSRA's and the FRA's adopted objective with respect to existing corridors and rights of way departs somewhat from Proposition 1A's imperative "shall" in that it includes the qualifier that HSTP's alignments "[m]aximize the use of existing transportation and rights-of-way to the extent feasible."<sup>42</sup> There is also some tension between the language of Proposition 1A concerning existing corridors and rights of way, on the one hand, and Proposition 1A's directive, on the other, that "[i]n selecting corridors or usable segments thereof for construction [of the HSTP], the [HSRA] shall give priority to those corridors or usable segments thereof that are expected to require the least amount of bond funds as a percentage of total cost of construction."<sup>43</sup> Under CEQA, however, "feasibility" is defined as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors."<sup>44</sup> Similarly, NEPA qualifies alternatives as those that are both "practical and feasible" from the environmental, technical, and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant.<sup>45</sup> Thus, under both Acts, practical, feasible, and plausible alternatives include those that may be more costly or not entirely consistent with all of the project's objectives.<sup>46</sup>

To the extent the HSRA's and the FRA's selection of an alignment along an existing corridor or right of way itself amounts to *mitigation* or *avoidance* of one or more significant adverse impacts of another alternative, this cost is not properly considered to be a direct cost of the selected alternative. Given the legal obligation under CEQA and NEPA to select and design project alternatives and to adopt affirmative measures to avoid, minimize, and mitigate the adverse environmental impacts of a project, the incremental cost of fully meeting this legal obligation is a cost not properly considered as a differentiating feature among alternatives on a cost-comparative basis. In other words, the mitigation cost of a project in compliance with the law is, to a large extent, an embedded cost of a proposed project. From an environmental impact standpoint, such costs may not properly be placed on the environmental and public side of the ledger, but rather are more properly allocated to the project itself, as the actual and legal cause of a particular environmental harm. Where the environmental and economic costs of a more damaging and environmentally more intrusive or disruptive alternative is shifted to the environment, to an affected resource, or to some third-party, these costs must be properly quantified and included in the relative environmental and economic cost of that more damaging alternative. Even if these tenets of environmental equity under CEQA and NEPA are here discounted or ignored in and of themselves, they must be accorded special and independent

<sup>41</sup> *Ibid.*

<sup>42</sup> See Merced Draft EIR/EIS at 1-5; Fresno Bakersfield Draft EIR/EIS at 1-7 [emphasis added].

<sup>43</sup> See Safe, Reliable High-Speed Passenger Train Bond Act, *supra*, at § 2704.08, subd. (f).

<sup>44</sup> Cal. Code Regs., tit. 14, § 15364.

<sup>45</sup> See the Council on Environmental Quality (CEQ) Guidance Regarding NEPA Regulations, 40 C.F.R. 1500.

<sup>46</sup> Cal. Code Regs., tit. 14, § 15126.6(c).

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weight in the context of the HSTP, where the HSRA and the FRA are operating under an express mandate to base their selection of alternatives and project design on the avoidance of a specific class of impacts.

For these reasons, any HSR alignment that avoids and minimizes impacts to California's irreplaceable agricultural and natural resources by strictly adhering to core, existing transportation, utility, and right-of-way corridors along the Merced-Fresno and Fresno-Bakersfield route *cannot* and *must* not be compared solely on a direct dollar cost-basis to an alignment that reduces the project's *direct* costs by externalizing the project's *indirect* economic and environmental costs to private interests, to the environment, and to California's natural and agricultural resource base generally. Rather, the HSRA and the FRA must weigh such direct cost considerations against the HSRA's and the FRA's express mandate to avoid impacts to a specific class of resources, as well as their independent legal obligation to avoid, reduce, and mitigate the adverse impacts of their project on these same resources.

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**II. Proposed Alternatives Within the Draft EIR/EIS**

A. An EIR Must Include a Reasonable Range of Alternatives and All Alternatives Are Governed By the Rule of Reason

CEQA mandates a lead agency to adopt feasible alternatives or feasible mitigation measures that can substantially lessen the project's significant environmental impacts.<sup>47</sup> For that reason, "[t]he core of an EIR is the mitigation and alternatives sections."<sup>48</sup> "The purpose of an environmental impact report is to identify the significant effects of a project on the environment, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided."<sup>49</sup>

The EIR must "describe a range of reasonable alternatives to the project, or to the *location of the project*, which would feasibly attain most of the basic objectives of the project, and evaluate the comparative merits of the alternatives."<sup>50</sup> The alternatives discussion must focus on alternatives that avoid or substantially lessen any significant effects of the project.<sup>51</sup>

<sup>47</sup> Pub. Resources Code, § 21002; Cal Code Regs., tit. 14, §§ 15002(a)(3), 15126.6(a); *Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41.

<sup>48</sup> *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.

<sup>49</sup> Pub. Resources Code, § 21002.1(a); see also Pub. Resources Code, § 21061.

<sup>50</sup> Cal Code Regs., tit. 14, § 15126.6(a).

<sup>51</sup> Cal Code Regs., tit. 14, § 15126.6(b); *Goleta Valley*, *supra*, 52 Cal.3d at p. 556 [EIR must consider alternatives that "offer substantial environmental advantages"].

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The range must be sufficient "to permit a reasonable choice of alternatives so far as environmental aspects are concerned."<sup>52</sup> Although no rule governs the number of alternatives that must be considered, the range is governed by the "rule of reason."<sup>53</sup> The range of alternatives must be selected and discussed in a manner that allows for meaningful public participation and informed decision-making.<sup>54</sup> The fact that CEQA does not require a specific number of alternatives does not excuse an agency's failure to present any feasible, less environmentally damaging options to a proposed project.<sup>55</sup>

In addition to a reasonable range of alternatives, those alternatives evaluated within the EIR must be "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors," as well as feasibly accomplishing *most* of the basic objectives of the project and avoiding or substantially lessening *one or more* of the significant effects.<sup>56</sup> After analyzing alternatives within an EIR, the determination of whether an alternative is feasible is made in two stages.<sup>57</sup> The first step involves identifying a range of alternatives that will satisfy basic project objectives while reducing significant impacts.<sup>58</sup> Alternatives that are not "potentially feasible" are excluded at this stage, as there is no point in studying alternatives that cannot be implemented.<sup>59</sup> In the second stage, the final decision on the project, the agency evaluates whether the alternatives are actually feasible.<sup>60</sup> At this point, the agency may reject as infeasible alternatives that were identified in the EIR as potentially feasible.<sup>61</sup>

Similar to CEQA, NEPA regulations have explicit requirements regarding the adequacy of the alternatives analysis within an EIS. Specifically, NEPA requires that an EIS "rigorously explore and objectively evaluate *all reasonable alternatives*."<sup>62</sup> To be adequate, an

<sup>52</sup> *San Bernardino Valley Audubon Soc'y v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 750; see also *Sierra Club v. Contra Costa County* (1992) 10 Cal.App.4th 1212, 1217-18, 1222 [EIR that only considered two alternatives for less development was not a range of reasonable alternatives].

<sup>53</sup> Cal Code Regs., tit. 14, § 15126.6(a)(D); *Marin Municipal Water District v. KG Land Corp.* (1991)

235 Cal.App.3d 1652, 1664 ["CEQA establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an EIR"].

<sup>54</sup> *Marin Municipal Water District*, *supra*, 235 Cal.App.3d at p. 1664.

<sup>55</sup> See *Sierra Club v. Contra Costa County*, *supra*, 10 Cal.App.4th at pp. 1217-18, 1222 [EIR that only considered two alternatives for less development was not a range of reasonable alternatives].

<sup>56</sup> Cal Code Regs., tit. 14, §§ 15126.6(c), 15364; see *Goleta Valley*, *supra*, 52 Cal.3d at p. 566.

<sup>57</sup> See *Mir Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 489-490; *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 981 ("*Native Plant Society*"); Cal Code Regs., tit. 14, § 15126.6(c).

<sup>58</sup> *Native Plant Society*, *supra*, 177 Cal.App.4th at p. 981; *Mir Mar Mobile Community*, *supra*, 119 Cal.App.4th at p. 489; Cal Code Regs., tit. 14, § 15126.6(a).

<sup>59</sup> *Native Plant Society*, *supra*, 177 Cal.App.4th at p. 981; *Mir Mar Mobile Community*, *supra*, 119 Cal.App.4th at p. 489; [alternatives analyzed in the EIR need not be actually feasible, but rather need only be "potentially feasible."].

<sup>60</sup> *Ibid*; see also Cal Code Regs., tit. 14, § 15091(a)(3).

<sup>61</sup> *Native Plant Society*, *supra*, 177 Cal.App.4th at p. 981.

<sup>62</sup> 40 C.F.R. § 1502.14 (emphasis added).

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environmental impact statement must consider every reasonable alternative.<sup>63</sup> An EIS is rendered *inadequate by the existence of a viable but unexamined alternative*.<sup>64</sup> Further, if the lead agency initially considers alternatives that could meet the purpose and need of the proposed action, but decides to not pursue them, the EIS must describe the reasons for the elimination of those alternatives.<sup>65</sup> As stressed under both NEPA and CEQA, it is especially important for the lead agency to fully document the reasons for eliminating the alternative from additional detailed study in order to fully inform the public.

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As discussed herein, the alternatives analysis within the Merced-Fresno and Bakersfield EIR/EISs not only contains alternatives that conflict with the basic purpose, need, and objectives of the voter approved Proposition 1A, but also omits certain alternatives that were improperly excluded from receiving full and proper environmental review. By failing to include a full range of alternatives and improperly rejecting alternatives prior to the environmental review stage, the public has been precluded from properly participating.<sup>66</sup>

B. Proposed Alternatives For The Merced-Fresno Section

1. The UPRR/SR 99 Alignment North of Fresno Is Most Consistent With Voter Intent, HST Mandates, Policies and Objectives

The Merced-Fresno Draft EIR/EIS does not yet designate a preferred alternative for the north-south alignment, but indicates that a preferred alternative will be selected based on public comments and responses to comments in the Final EIR/EIS. CFBF respectfully, but emphatically submits that the UPRR / SR 99 alignment, for the Merced-Fresno section of the HSTP north of Fresno, is the alignment that is *most* consistent with voter intent, HST mandates, and the HSRA's and the FRA's adopted policies and objectives for the project, to locate the HSTP alignment within existing transportation, utility, and right-of-way corridors, and to avoid, minimize, and mitigate impacts to natural and agricultural resources. The UPRR / SR 99 alignment is *the* most desirable option to meet CEQA's and NEPA's mandates to avoid, minimize, and mitigate impacts to natural and agricultural resources, and also to further the objectives of the state and federal Endangered Species Acts, the Fish and Game Code, and the Clean Water Act. Furthermore, the UPRR / SR 99 alignment is *the* most effective option to address local concerns related to potential impacts to important farmland and economic activities and operations in nonadjacent agricultural areas along the BNSF, Hybrid, and UPRR / SR 99 alignments. The reasons for these conclusions are manifold and overwhelming, but include, without limitation, the following considerations:

<sup>63</sup> *Friens of Endangered Species v. Jantzen* (9th Cir. 1985) 760 F.2d 976, 988.  
<sup>64</sup> *Methow Valley Citizens Council v. Regional Forester* (9th Cir. 1987) 833 F.2d 810, 815, rev'd on other grounds sub nom. *Robertson v. Methow Valley Citizens Council* (1989) 490 U.S. 332.  
<sup>65</sup> 40 C.F.R. 1502.14(a).  
<sup>66</sup> *Laurel Heights I, supra*, 47 Cal.3d at p. 404. [The key issue regarding the adequacy of the alternatives analysis is whether the alternatives discussion encourages informed decision-making and public participation.]

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- The continuous north-south alignment along Highway 99 from Merced to Fresno, formerly denominated the A-2 alignment, and presently designated the UPRR / SR 99 alternative, is the alignment supported by the California Farm Bureau Federation. There is strong local support for the UPRR / SR 99. Furthermore, there are overriding environmental and policy considerations that distinguish the UPRR / SR 99 alignment as an environmentally superior choice. In considering the UPRR / SR 99 as a preferred alignment for the Merced-Fresno section of the HSTP, the HSRA and the FRA should, therefore, give considerable weight to the strong consensus on the Merced-Fresno UPRR / SR 99 alignment among agricultural interests representing a combined \$8.9 billion dollar agricultural economy in Fresno, Merced, and Madera Counties as of 2009, as the No. 1, 5, and 14 agricultural counties, respectively, in the nation's No. 1 agricultural state. Nor is it insignificant that the county boards of supervisors of the two most affected counties along the Merced-Fresno section of the HST (Merced and Madera) have likewise manifested their express support for the UPRR / SR 99 alignment.
- The UPRR / SR 99 alignment follows not only the existing Highway 99 and Union Pacific Railroad ("UPRR") rights of way, but also *the* core transportation, utility, and urban infrastructure corridor for the east side of the San Joaquin Valley, from Merced to Fresno. In contrast, while the Draft EIR/EIS's alternate Burlington-Northern Santa Fe ("BNSF"), Hybrid, and UPRR / SR 99 Chowchilla and Madera Bypass alignments utilize the existing BNSF right-of-way in varying degrees, the BNSF portions of the BNSF, Hybrid and Bypass alignments transverse vast areas of some of the best and most productive farmland in the world. By and large, these areas are currently undeveloped and intensively farmed. Moreover, the BNSF, Hybrid, and UPRR / SR Bypass alignments tend to deviate from the BNSF right of way to a much greater extent than a continuous UPRR / SR 99 alignment. Given these differing characteristics of the various alignments—and considering the HSRA's and FRA's mandates to locate the HST alignment *away* from natural and agricultural resources within existing transportation and utility corridors and right-of-ways—the unavoidable conclusion would appear to be that the HSRA's and the FRA's preferred alternative should be a continuous UPRR / SR 99 alignment from Fresno to Merced, and *not* the BNSF alignment, the Hybrid alignment, or either of the UPRR / SR 99 alignments around the Cities of Chowchilla and Madera.
- As corroborated by the analyses in the Merced-Fresno Draft EIR/EIS itself, a continuous UPRR / SR 99 alignment will have *less severe* direct and indirect impacts on important farmland, existing agricultural operations, protected and special-status wildlife, wildlife corridors, unique wildlife habitats including designated critical habitat, and wetlands and other "waters of the United States" within the meaning of section 404 of the Clean Water Act. In contrast, the impacts to *all* of these resources will be proportionately *greater* for a BNSF alignment, a Hybrid alignment, or a UPRR / SR 99 alignment (including either or both of the proposed bypasses around the Cities of Madera and Chowchilla). Consistent with the HSRA's mandate in Proposition 1A, as well as the HSRA's and the FRA's own

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policies and objectives to minimize impacts to agricultural and natural resources, the UPRR / SR 99 alignment is *per se* an environmentally superior alternative for the HSTP. In recognition of this fact, a continuous UPRR / SR 99 alignment should be selected by the HSRA and the FRA as the preferred alternative for the HSTP.

- Agricultural and natural resources, including important farmland, protected and special-status species, natural habitats, wetlands and other waters of the United States are irreplaceable, finite, and nonrenewable resources. Moreover, impacts on such resources are *environmental* impacts that receive special treatment and protection under CEQA, NEPA, and other environmental laws, including the state and federal Endangered Species Acts and the Clean Water Act. In contrast, socioeconomic and community impacts in urban and urbanizing areas are purely *social and economic*. Within this legal context, it is clear that, in assessing impacts and selecting a preferred alternative, the HSRA's and the FRA's Final EIR/EIS must accord proportionately *greater* weight to such *environmental* impacts under the BNSF, Hybrid and UPRR / SR 99 Bypass alignments, than to any countervailing *socioeconomic* or community-related impacts the HSRA and FRA may consider under a continuous UPRR / SR 99 alignment. Furthermore, although socioeconomic and community-related impacts are at least required to be discussed and analyzed under CEQA and NEPA (with some slight differences among the two laws), *neither* law mentions *political* feasibility, much less *political* convenience as factors that have any place in the CEQA/NEPA process.<sup>67</sup> Thus, the proper hierarchy and legal framework within which the HSRA and the FRA must approach selection of its preferred alternative is, first, *environmental* and, second, *social and economic*, whereas then, and *only* then, having considered the first two classes of impacts, may *political, pragmatic, or opportunistic* considerations have *any* bearing on the agencies' decision whatsoever.
- As discussed in greater detail elsewhere herein, the BNSF and Hybrid alignments north of Fresno—and any other HSR alignment that would blaze a trail through heretofore undisturbed rural and open space areas—will have dramatic impacts on natural and agricultural resources in these areas and will be extremely disruptive to countless existing agricultural operations. In contrast, the disruptiveness and the impacts of a continuous UPRR / SR 99 alignment on agricultural and natural resources, and on existing agricultural operations, will be much more limited, generally consistent with surrounding land uses, and confined in nature.

<sup>67</sup> The CEQA guidelines define "feasible"—as in a "feasible" alternative, a "feasible" project, or "feasible" mitigation—as something that is "capable of being accomplished in a successful manner, within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors." (Cal. Code Regs., tit. 14, § 15364.) NEPA speaks of the "human environment," "direct, indirect, and cumulative effects," and of "aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative," in addition to "natural," "physical," and "ecological" effects. (See, e.g., 40 C.F.R. §§ 1508.8 and 1508.14.) Neither law makes any mention whatsoever of "political" considerations or factors as facet of the CEQA and NEPA process.

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- Although a UPRR / SR 99 alignment is projected to be more costly than a BNSF or Hybrid alignment, the HSRA, local governments, and local communities can capitalize on expenditures associated with necessary improvements along UPRR / SR 99 alignment, by coordinating these improvements with other necessary improvements to local infrastructure—for example, in conjunction with future improvements and expenditures by CalTrans, the Department of Transportation, Amtrak, the Union Pacific Rail Road, and others, to improve and upgrade infrastructure, exchanges, roadways, and the like in the urban centers and communities along Highway 99. In addition to the planned HST stations in downtown Fresno and Merced, these improvements can be used as part of the HSRA's strategy to catalyze infill and redevelopment projects in depressed or blighted commercial and residential areas, to promote higher density development and to stimulate local investment in these communities. These benefits of a continuous UPRR / SR 99 alignment could be expressly incorporated as part of the HSRA's proposed mitigation strategy to encourage infill and higher densities and, thus, avoid and mitigate potential adverse direct, indirect, and cumulative growth inducing impacts of the HSTP, including potential urban and rural sprawl and indirect farmland conversion effects of the project. By leveraging HST works and expenditures with available local, state, and federal dollars for transportation infrastructure, a UPRR / SR 99 alignment could transform the existing urban centers along the Highway 99 corridor, making these communities more attractive places to live, work, and invest. This would have the salubrious effect of counteracting historic trends of high unemployment, poverty, and low density development and rural sprawl in the Valley, as people move farther and farther away from the established urban centers. In contrast, the many overpasses, underpasses, and other road improvements required along a BNSF and Hybrid alignment through predominantly rural areas will require significant expense and engineering prowess—but will achieve *none* of these potential synergies or social and environmental benefits. Thus, from the standpoint of these avoided direct, indirect, and cumulative growth inducing, agricultural, and land use impacts as well, it appears that, once again, a continuous UPRR / SR 99 is the environmentally superior, preferred alternative for the Merced-Fresno alignment.
- An UPRR / SR 99 alignment located entirely within the Highway 99 corridor has the added advantage that it will afford the HSRA and the FRA more options as to the final selection and location of a proposed Merced-Fresno Heavy Maintenance Facility ("HMF"). Selection of an HMF along the Highway 99 corridor, either within or in close proximity to one of the affected communities along that alignment, could compensate some of the adverse land use impacts of a UPRR / SR 99 alignment through these same communities. Specifically, an HMF along the UPRR / SR 99 corridor would generate employment, local tax revenues, and associated economic activity. Thus, an HMF along the UPRR / SR 99 alignment could provide yet another important component of a robust infill, redevelopment, and compact growth strategy by local governments, in coordination with the HSRA and the FRA, to address the project's potential direct, indirect, and cumulative growth-inducing impacts. In addition, a HMF site along the Highway 99

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corridor could serve as an effective means to mitigate some of the environmental justice impacts of the project on low-income and minority populations, whether from lost agricultural jobs or potential displacement. In contrast, an HMF along the BNSF alignment would be quite distant from any of the urban centers in the area, providing diminished economic benefits to any of these communities, while at the same time promoting potential leapfrog development in what is otherwise an entirely rural setting.

- To the extent it provides a much more direct path of travel, an UPRR / SR 99 alignment is also more conducive and amenable to meeting the HSTP's mandated objectives in terms of speed and safety. Whereas a continuous UPRR / SR 99 with appropriate elevations through the urban areas would provide a direct path of travel from one city to the next, the BNSF, Hybrid, and UPRR / SR 99 Bypass options are characterized by inefficient and inelegant twists and turns, in many places slashing across roads and fields in what is now virgin farmland. Aesthetic concerns aside, however, the more significant issue with these alignments relates to safety and mandated travel times. A HST located along a continuous UPRR / SR 99 alignment could travel more safely, at a faster and more constant rate of speed between one urban destination and another. This would improve the HST's efficiency, its reliability and, more than likely, its ridership.

• One issue related to a UPRR / SR 99 alignment deals with the apparent concerns of the UPRR that a shared right-of-way could interfere with the UPRR's plans for future expansion of its rail lines and its commercial service in the Valley to predominantly agricultural customers. Given that a HSTP alignment along Highway 99 would follow and potentially share the UPRR's right-of-way, this is a significant concern. However, the Merced-Fresno EIR/EIS does *not* conclude, and we doubt that this concern is, in fact, one that is insurmountable. Recognizing the UPRR's concerns, therefore, we would encourage the HSRA to work with the UPRR to identify potential conflicts and workable political, financial, institutional, planning and engineering solutions to those conflicts. To be sure, as outlined herein, the many significant environmental advantages of a continuous UPRR / SR 99 alignment north of Fresno argue strongly in favor of a solution that seeks ways to address the UPRR's concerns, allowing for a shared alignment along the 99 corridor, that avoids any unacceptable impacts to the UPRR.

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2. Consistent With HST Voter Intent, Mandates, Policies and Objectives, And Local Concerns, The Highway 152 Wye Alignment Should Be Considered and Designated As The Preferred Alternatives Over The Avenue 21 And Avenue 24 Alignments

CFBF submits that the Highway 152 east-west alignment for the Wye linkage between the proposed Merced-Fresno and Bay Area sections of the HST is the preferred alternative the HSRA and the FRA should select in their Final EIR/EIS, consistent with the voter intent, mandates, policies and objectives requiring that the HST alignment utilize existing transportation and utility corridors and rights of way and avoid and minimize impacts to natural and

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agricultural resources to the maximum extent possible. In contrast, the proposed Avenue 21 and 24 Wye alignments are inconsistent with HST voter intent, mandates, and objectives concerning farmland, natural resources, existing corridors and existing rights of way and, therefore, should be abandoned. For the same reasons, CFBF likewise opposes the proposed Chowchilla Bypass route and split around the City of Chowchilla, along the proposed alignment for the proposed Avenue 21 Wye. Instead, to achieve maximum consistency with the HST mandates concerning farmland, natural resources, and existing corridors and rights of way, a turnout for a new Highway 152 alignment should be configured as a simple "V," similar to the proposed alignment for the Avenue 24 Wye off the UPRR / SR 99 north-south alignment, but just north of Avenue 24, along Highway 152.

The Merced-Fresno Draft EIR/EIS indicates that the Avenue 21 and 24 Wyes depicted and preliminarily considered in that document will be fully considered in a next-tier EIR/EIS for the Bay Area to Central Valley segment of the HSTP. However, even preliminary or partial consideration of the Avenue 21 and 24 alignments in the Merced-Fresno Draft EIR/EIS is significant (and potentially prejudicial) in that either alignment implies a different set of impacts along two distinct routes. Furthermore, even a preliminary set of potential assumptions concerning the specific path and location of either Wye proposal has definite implications for the selection of a north-south alignment, including the HSRA's potential selection of the Chowchilla Bypass. For these same reasons, it is also significant that the Draft EIR/EIS *does not* include or consider (even preliminarily) a Highway 152 alternative to the proposed Avenue 21 and Avenue 24 alignments, including the proposed Chowchilla Bypass. Indeed, it appears that the failure to consider a Highway 152 alternative in the Merced-Fresno EIR/EIS may constitute illegal piecemealing of the project under CEQA.

The Highway 152 alignment has the overwhelming backing and support of the local agricultural communities, both north and south of the Merced-Madera county line, as well as the express endorsement of the Madera County Board of Supervisors. Whereas, the Avenue 21 and Avenue 24 alignments would impact a complex web of irrigation and water distribution systems, including the canals and ditches of at least one major irrigation district, a Highway 152 alignment would have no such impacts. Unlike the Avenue 21 and 24 alignments, a Highway 152 alignment would follow a major regional transportation corridor (State Highway 152). Unlike the Avenue 21 proposal, a Highway 152 alignment would not require a Chowchilla Bypass or east-west split, or result in impacts to a large additional number of affected farm operations, and a substantially larger acreage of productive farmland. Highway 152 has been slated by CalTrans for major improvements in the near future, such that a Highway 152 alignment for the Wye might be conveniently coordinated with CalTrans improvement plans for Highway 152. Furthermore, as with a continuous north-south UPRR / SR 99 alignment, a Highway 152 alignment would have advantages the Avenue 21 and 24 alignments lack, in that it would require fewer curved and diagonal cuts across impacted agricultural parcels, while avoiding the impacts of the Avenue 21 and 24 alignments to numerous farm properties that are

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not currently adjacent to any major road or planned expansion of the existing transportation infrastructure.

In addition to these concerns associated with Avenue 21 and 24 alignments, as with other proposed alignments that stray from existing corridors and rights-of-way into adjacent farmland, not only are agricultural resources and local agricultural operations more negatively impacted the farther an alignment encroaches into these predominantly rural, agricultural, and open space areas, but in these same areas the probability and actual occurrence of impacts to sensitive habitats, wildlife resources, and waters of the United States rises significantly. As these comments emphasize, this is a major environmental concern, not only for the BNSF, Hybrid, UPRR / SR 99 Bypass, and Avenue 21 and 24 alignments north of Fresno, but also for essentially *any* of the Fresno-Bakersfield alignments through agricultural areas and outside of existing corridors and rights-of-way.

Accordingly, as described, there are many compelling reasons the HRSA's and the FRA's east-west alignment for the Bay Area to Central Valley linkage should specifically eschew the Avenue 21 and 24 alignments, including the proposed Chowchilla Bypass, and why the HRSA and the FRA should instead select the more environmentally sensitive and policy and objective-consistent Highway 152 alignment.

C. Proposed Alternatives For The Fresno-Bakersfield Section

1. Farmland Conversion and Other Significant Issues Remain Outstanding With Respect To The Proposed East and West Hanford Bypass Options Along The Fresno-Bakersfield Western Alignment

In light of the late (October 6th, 2011) announcement that a revised and recirculated EIR/EIS will consider a West Hanford Bypass alignment in addition to the proposed East Hanford Bypass option in Kings County, CFBF at this time reserves any detailed comment on this portion of the Fresno-Bakersfield Western Alignment until the HSRA releases the HSTP's West Hanford alternative to the proposed East Hanford alignment. Generally, however, we would note that the impacts to agricultural lands and businesses along either alignment would appear to be significant and unacceptable.

2. Consistent With HST Voter Intent, Mandates, Policies And Objectives, And Local Concerns, An All-BNSF Alignment Through Kern and Tulare Counties Should Be Designated The Preferred Western Alignment South Of Fresno Over The Proposed Wasco-Shafter and Allensworth Bypass Alignments

Like the BNSF, the Hybrid, the proposed Chowchilla Bypass, and the Avenue 21 and 24 Wye Alignments *north* of Fresno, CFBF submits that the proposed Wasco-Shafter and

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Allensworth Bypass options, along the Western Alignment of the Fresno-Bakersfield section of the HSTP in the Counties of Kern and Tulare, are fundamentally inconsistent with the HST mandates to avoid impacts to natural and agricultural resources, and to locate HST alignments within existing transportation corridors and rights-of-way. In general terms at least, the reasons for this are similar to what is discussed above in relation to the various Fresno-Merced alignments that deviate from the UPRR / SR 99 corridor. Thus, these reasons include, with limitation, impacts to agricultural lands and operations in areas currently located outside existing transportation or utility corridors or rights-of-way; diagonal and curving cuts across fields and farm structures; impacts to rural roads and property access points; impacts to irrigation systems and water infrastructure, including canals, ditches, and deep wells; in addition to and numerous other disruptions to existing agricultural lands and activities.

3. The Fresno-Bakersfield Draft EIR/EIS Fails To Consider A Reasonable Range Of Alternatives By Failing To Fully Analyze a UPRR / SR 99 Alignment

Perhaps the most serious omission of the Fresno-Bakersfield Draft EIR/EIS, in terms of its consideration of alternatives, is the failure to consider a UPRR / SR 99 alignment to the east, in addition to the eastern BNSF alternative and sub-alternatives presently considered. While the Draft EIR/EIS includes some general discussion of the HSRA's elimination of a number of potential alternatives along or around the Highway 99 Corridor, and while the Draft EIR/EIS references a 2007 Visalia-Tulare-Hanford Station Feasibility Study supposedly documenting and explaining that process, the 2007 Study in fact provides only the vaguest of explanations why a UPRR / SR 99 alternative *south* of Fresno was eliminated. Thus, some of the main concerns cited include potential community impacts, cost and right-of-way issues. Objectively, however, as discussed with respect to the Merced-Fresno section of the HSTP above, all of these concerns are present in some degree along the Fresno-Merced HSTP alignment to the north—yet the Fresno-Merced EIR/EIS considers a UPRR / SR 99 alternative. As with the Merced-Fresno UPRR / SR 99 alignment to the north, therefore, it would appear that there are various reasons a UPRR / SR 99 alternative should at least be considered in the Fresno-Bakersfield EIR/EIS, just as a UPRR / SR 99 alternative is considered in the Merced-Fresno Draft EIR/EIS.

From an agricultural resources standpoint, for example, the differences between the BNSF alignment and a UPRR / SR 99 alignment from Fresno to Bakersfield largely parallel the differences between the BNSF and UPRR / SR 99 alignments from Merced to Fresno. Thus, it is generally true that the more winding and circuitous BNSF (with or without its multiple proposed bypasses along the country two-lane Highway 43) would tend to impact mostly farmland, in mostly undeveloped and sparsely populated or unpopulated areas. In contrast, while it too crosses through major agricultural areas in Kern, Tulare, and Fresno Counties, the heavily travelled and generally straight, four-lane UPRR / SR 99 corridor *itself* is much more heavily built up than Highway 43 to the west, even south of Fresno. In terms of the HSTP's objective to reduce impacts to natural and agricultural areas, therefore, it would appear that the impact of a

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UPRR / SR 99 corridor alignment south of Fresno would be significant, and yet generally less severe than a BNSF alignment to west.

In addition, there are other differences between the UPRR / SR 99 and BSNF alignments south of Fresno: Along the BNSF alignment, for example, a potential HSTP Kings-Hanford Station along the proposed East Hanford Bypass would lie a considerable distance outside the City of Hanford (population 41,686), and perhaps 15 miles from the major regional population center of Visalia to the east (or, alternately, along a hypothetical West Hanford alignment, somewhere midway between Hanford (population 41,686) and Lemoore (population 19,712)). In contrast, the formerly proposed Visalia-Goshen-Tulare area HSTP station would abut the community of Goshen (population 2,394) just outside Visalia, in much closer proximity to the neighboring cities of Visalia (population 93,959) and Tulare (population 43,994). Thus, on this basis, it would appear that the Proposition 1A objectives to “plan and construct [the HSTP] in a manner that minimizes urban sprawl,” and to locate stations “in areas with good access to local mass transit and other modes of transportation” are potentially better met along a Fresno-Bakersfield UPRR / SR 99 alignment, than along the BNSF.

Finally, to highlight just one more difference, whereas the City of Hanford along the BNSF right-of-way has expressed grave concerns regarding the impact of an HSTP on that community, the City of Visalia was enthusiastically in favor of a Visalia HSTP stop before the HSRA inexplicably and improperly screened the UPRR / SR 99 alignment out. At the very least, therefore, it would appear that the UPRR / SR 99 is a reasonable alternative that the Fresno-Bakersfield EIR/EIS should at least consider. Indeed, from a strictly legal perspective, without at least one alternative to which the Western BNSF Alignment may be compared, it appears quite likely that the current Draft EIR/EIS lacks a reasonable range of alternatives.

**III. Impacts Analysis under CEQA and NEPA**

**A. Impacts to Agricultural Resources**

**1. Direct Impacts to Agricultural Resources**

Whatever the alignment the HSRA and the FRA selects, both the Merced-Fresno and the Fresno-Bakersfield Draft EIR/EIS’s treatment of direct impacts to agricultural resources is inadequate in several respects. This is so, in part, because of the overly compartmentalized manner in which impacts to agricultural lands are treated separately from social and economic impacts associated with these lands, and also the manner in which the Draft EIR/EISs treat direct impacts, separately from potential indirect and cumulative impacts. In some degree, this is an awkward characteristic and the inevitable dilemma of any EIR/EIS, due to the way CEQA and NEPA treat impacts to the physical environment separately from social and economic impacts and, also, the way CEQA and NEPA treat direct impacts as a category separate from indirect and cumulative impacts. However, to provide a full picture of the full range of impacts associated with a project, a skillfully prepared and thorough EIR/EIS can and should endeavor to bridge

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these gaps through proper integration of the Draft EIR/EIS’s analyses of physical and environmental impacts in relation to its discussion of related social and economic impacts. Similarly, an EIR/EIS that fulfills its purpose to inform the public must take a view of a project’s potential impacts that extends beyond the direct impacts of the project to the full universe of less obvious, but no less probable and foreseeable, potential indirect and cumulative impacts consequences of the project.

Having carefully reviewed the Merced-Fresno and Fresno-Bakersfield Draft EIR/EISs, we cannot avoid a conclusion that both documents fail to fulfill these basic purposes of an EIR/EIS. The net result of this failure is, we believe, an environmental analysis that significantly understates the potential impact of the proposed project. Where the impacts of a major infrastructure project of this kind are understated, the risk is of course that the potential severity of a project’s impacts may be overlooked and too easily dismissed—and, having been dismissed, that the erroneous conclusions thus reached will lead the public to a false understanding, not only of a project’s true environmental, social, and economic consequences, but also of the societal trade-offs in play.

Because the Merced-Fresno and Fresno-Bakersfield EIR/EISs fails to view the physical impacts of the project on agricultural land properly within the context of the full range of the project’s related social and economic impacts, the analysis fails to faithfully capture the combined impact of the two classes of impacts together. Similarly, while the Draft EIR/EISs provide an initial estimate of the physical locations and acreages of the agricultural lands which may be directly impacted (either temporarily during construction, or permanently as result of the project footprint), the Draft EIR/EISs’ assumptions as to the full range of potential impacts to these lands and their present and future uses, including the potential indirect and cumulative growth-inducing effects of the project, are cursory and unrealistic at best, and reckless at worst.

Significant impacts to agricultural resources cannot be limited to direct impacts caused by the footprint of the Project. Rather, such impacts also include indirect and cumulative impacts, in addition to direct costs imposed on the agricultural community.

**2. Impacts Unique to Dairies, Poultry and Livestock Operations**

Given the extensive regulatory requirements involved, financial investment required, and the biological nature of food production animals, a dairy cannot close easily and simply re-establish in a new location. Complete facility relocation requires at least four major permits that can take up to two years or more each to obtain, at costs exceeding tens of thousands of dollars in consulting and permitting fees. Moreover, dairy cattle cannot be put in “storage” on some other facility during the interim between when the original facility closes and the new one opens. (Existing facilities have a maximum number of cows allowed on them, as defined in 2005). Selling or slaughtering an entire herd of thousands of animals obliterates a dairy’s gene pool

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built on generations of careful animal breeding, the true cost to the farmer being impossible to quantify.

A major additional challenge to a dairy farmer being forced to relocate will be the availability of suitable land for purchase. For example, an individual would not want to build a dairy in a 100-year storm area. A location closer to, versus farther from the milk processing plant is beneficial. Depth to water (groundwater) and the availability irrigation district water, as well, are important considerations at a new site. Furthermore, soil type is important for growing high yields of livestock feed.

Assuming that suitable and sufficient dairy land is even available for purchase, basic permits for a new facility include:

1. County Use Permit (CUP) (including various building permits for all structural items such as barns and manure storage ponds). It requires compliance with CEQA;
2. Regional Water Quality Control Board (RWQCB) Waste Discharge Requirements (WDR) Permit, which requires the creation of a site-specific Nutrient Management Plan, Waste Management Plan, and Ground Water Monitoring Well Plan;
3. San Joaquin Valley Air Pollution Control District (SJVAPCD) Permit to Operate, which requires compliance with Rule 4570 (the volatile organic compound reduction rule) and Rule 4550 (the PM 10 reduction plan) as well as various other rules depending on the size for generators, gas tanks, chemicals on site, and the like; and,
4. California Department of Food and Agriculture Grade A Permit under the Pasteurized Milk Ordinance, which is mandatory to produce and sell milk in-state and in interstate commerce.

A WDR and Air Pollution Control District Permit to Operate will not be granted in the absence of an approved CUP and CEQA document, and neither of the issuing regulating agencies for these permits will currently take the lead in addressing CEQA for such a project (the time and cost of which varies by county, but which would be substantial in any location).

For illustration purposes, one California dairy that relocated to the Central Valley incurred construction costs of \$15 million (\$5,000/head milking) during the six years it took to permit and construct the facility to begin production in 2005. (For comparison, the average size California dairy in 2010 milked nearly 1,100 cows.) The EIR and new permitting effort cost an additional \$1,000,000. Because there is no "grandfather" clause in this regulatory environment, a relocated dairy is treated as a new facility, and thus subject to the associated more stringent and expensive regulatory requirements (new ponds need to be a double liner leachate collection system).

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Any dairy whose cropland the HSTP impacts will need to modify its Nutrient Management Plan. If the reduction in cropland reduces the farm's available land such that it cannot meet the 1.4 nitrogen balance required within the WDR, the dairy will be forced to drop cow numbers until it can show that balance can be reached.

Typically shortfalls in directly associated farmland are met through offsite transport of manure (either to owned, rented, or other agreement land). An additional challenge in the system can be the manure collection method: If the bulk of the manure is collected using flush lanes and storage ponds, the dairy is limited to the available acreage that the liquid manure can be distributed on. In some cases, manure collection must be changed to scrape rather than flush. Related costs can range from investment in additional tractors and/or implements used for scraping (and additional employee time) to installing a fully-automated scrape system.

Also, depending on the impacted land's location in proximity to the remainder of the dairy's cropland, pipeline distribution systems and tail water return systems may be impacted creating the need for retrofitting of the system. This, then, provides another illustration of how a dairy is a complete, interworking "system"—and impacts made to one area/branch of the system cause impacts to other parts of the system.

To install or modify a waste water pond requires an approved, engineered pond construction plan. A certified engineer has to put forth a proposal that the RWQCB staff has to approve. Several "sign-offs" are required by the project engineer along the way. Often ponds in the Central Valley require the importation of clay or other liner material. Monitoring wells are also required. Few pond installations have been done in recent years because of the onerous process and associated requirements.

To illustrate the cost and time involved in modifying an existing Central Valley dairy, one farmer recently paid \$60,000 for EIR/CEQA documents for the engineer's work only; this did not include any permit fees.

For another dairy to expand an existing pond, the engineer's assessment cost \$10,000 for the construction plans; the RWQCB then took 13 months to approve it. The farmer is currently working with the county for project approval that is expected to take at least another six months. Only after all this is complete can construction changes to the pond begin.

The base cost for a nutrient management plan or a waste management plan is \$12,000, and additional costs are incurred if the plan has to be amended upon RWQCB review.

3. Indirect Impacts to Agricultural Resources

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d) Regional Growth

Various portions of both the Merced-Fresno and Fresno-Bakersfield Draft EIR/EIS consider the potential growth-inducing impacts of the HSTP. Thus, in particular, the Regional Growth, Land Use, and Cumulative Impacts chapters of both documents include discussion of this topic. In addition, the Merced-Fresno and Fresno-Bakersfield Draft EIR/EISs' analyses, CEQA-NEPA findings, mitigation measures and the like, with respect to the potential growth-including of the project, rely to a large extent on the conclusions and assumption of previous analyses of these topics in the HSRA's and FRA's statewide programmatic EIR/EIS, and in a July 2003 and July 2007 Economic Growth Effects studies by Cambridge Systematics, Inc. Thus, as presented in the HSRA's and the FRA's analyses to date, the general analysis concerning the HSTP's potential growth inducing impacts proceeds accordingly:

- Construction of the HSTP will result in only marginal growth in the Central Valley relative to the No Project Alternative;
- Local land use policies and plans favor high-density growth and infill and discourage sprawl and future growth in the Central Valley is likely to embody and exemplify the intent of these policies;
- With rapid, inexpensive access to the Bay Area, Southern California, and other population and economic centers in California, there will be no significant displacement of population from these areas to the Central Valley;
- Building the HSTP will support and catalyze more compact patterns of development, through a transportation-orient-development strategy for the Central Valley, of which HSTP is the centerpiece;
- Potential growth with the HSTP will not consume any more land than the maximum extent of what is already provided for in existing general plans and spheres of influence;
- Coordination and shared goals of the HSTP and city and county governments in terms of compact growth and infill will ensure more efficient and compact patterns of development through the Central Valley;
- By ensuring more compact patterns of growth and discouraging urban and rural sprawl, local land use decisions and the HSTP will not result in premature conversion of Central Valley farmland—and will in fact result in conservation of a low estimate of at least 30,000 acres *less* farmland than would be otherwise consumed under the No Project Alternative statewide.

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While these assumptions present one possible scenario, however, they present *just one scenario*. Furthermore, they present a scenario that leads to the conclusion, reached in the Draft EIR/EISs, that any potential growth-inducing impacts of the HSTP (whether direct, indirect, or cumulative) are, in fact, insignificant. Despite the HSRA's confidence in the certainty of its assumptions concerning growth, however, we cannot help but question the validity of this single-variable, single-outcome approach to the project's potential growth inducing impacts. In reality, we would submit that the future trajectory of growth in the Valley with a future HSTP is anything but certain. For example, it is not difficult to imagine quite a different scenario than that selected by the HSRA and the FRA in their EIR/EIS based, not unreasonably or implausibly, on a very different set of assumptions, along the following lines:

- A HSTP connecting the main population centers in the San Joaquin Valley to the Bay Area, South California, and other parts of the Central Valley will enable people currently residing in the state's expensive and over-crowded coastal areas to reach cheaper housing in now remote areas of the Valley, while still working within an hour to two hour's commute to these same coastal areas. Thus, the HSTP will turn now distant Central Valley communities into readily-accessible bedroom communities of the Bay Area and Southern California.
- Consistent with past historical patterns of growth in the Valley, local policies and visions of more efficient growth will fail to materialize and, instead, growth in Central Valley will continue to follow a pattern of less dense urban and rural sprawl, accelerated and exacerbated by the increased accessibility of the Valley via a new statewide 220-mile-an-hour high-speed train network connecting the state's major coastal population centers to the now remote San Joaquin Valley.
- The HSTP's "transportation-oriented-development" strategy, potential infill and increased economic investment and activity in the downtown areas around planned HSTP stations in Fresno and Merced and will *not* translate into more compact patterns of regional growth outside of the immediate neighborhood around these new HSTP stations. Furthermore, the relative wealth of cheap, flat land in the Valley, constrained only by the present uses of surrounding farmland, *will continue to feed a pattern of low-density urban, suburban, and rural sprawl*.
- Presently projected and potential new growth associated with construction of the HSTP will *not* result in a net 30,000-acre *reduction* in projected farmland loss, but rather in a net *increase* of this amount, if not significantly more.

An alternate scenario of this sort is, we think, not incredible unduly pessimistic. For example, the Regional Growth chapter of the Merced-Fresno Draft EIR/EIS notes that "the [July 2007 Cambridge Systems, Inc. economic growth study of the Bay Area to Central Valley HSTP] found that the overflow of people from urban coastal areas seeking affordable housing within

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commuting range of major metropolitan areas drives the high growth projections for these San Joaquin Valley counties.<sup>68</sup> If is accurate, then it would seem logical to conclude that bringing “affordable housing” in the San Joaquin Valley much more dramatically “within commuting range of [the major coastal metropolitan areas]” may dramatically increase the rate of inland migration to the San Joaquin Valley. Why, for example, would we assume that California’s experience, and that of the San Joaquin Valley will be significantly different than the experience of Japan, where the *Shinkansen* high-speed rail system “dispersed growth from existing (pre-train) centers to sub-centers where access points (stations and expressways) were located,” and where “these high access points attracted indigenous growth within local areas which complement and accentuate these new growth sub-centers.”<sup>69</sup> Or why not assume that it will not happen in Central Valley communities like Merced and Fresno, as it did in the City of Nantes “two hours outside Paris by high-speed train,” where French firms were found to be “much more likely to relocate to the peripheral city as a result of the easy access to Paris.”<sup>70</sup> Indeed, it is difficult to understand why neither the Merced-Fresno, nor Fresno-Bakersfield Draft EIR/EIS considers or addresses *any* of the following, very reasonable propositions included in a September 2008 paper commissioned by the HSRA on “The Economic Impact of the California High-Speed Rail in the Sacramento/Central Valley Area” that:

- “The Central Valley’s population will grow dramatically over the next 20 years....”<sup>71</sup>
- “[W]ith improved access some people may come to see Central Valley cities as ‘bedroom communities’ to major metropolitan labor markets or reduced transportation costs could induce employers to move to the Central Valley for its reduced costs of operation.”<sup>72</sup>
- The “HSR may cause population across the state to increase because of business expansion into the state or expansion of businesses already operating within the state.”<sup>73</sup>
- The “HSR may cause disparate population growth rates across regions as businesses or residents find it feasible [...] to reallocate to lower-cost more readily accessible areas of the state.”<sup>74</sup>
- “[C]reating more efficient transportation access to the heart of the Central Valley region, which tends to be inaccessible to major metropolitan areas because of the cost of travel, would have a disproportionately positive employment impact from HSR.”<sup>75</sup>

<sup>68</sup> Merced-Fresno Draft EIR/EIS at 3.18-7.

<sup>69</sup> See Kantor, “The Economic Impact of the California High-Speed Rail in the Sacramento/Central Valley Area,” September 2008 at 16.

<sup>70</sup> See *id.* at 21.

<sup>71</sup> *Id.* at 13.

<sup>72</sup> *Ibid.*

<sup>73</sup> *Ibid.*

<sup>74</sup> *Ibid.*

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- “[T]he Central Valley and Southern San Joaquin Valley will experience explosive growth in the service sector, which will be significantly amplified as a result of HSR.”<sup>76</sup>
- “[R]educed travel times and costs enable consumers to access more distant markets, enable producers to deliver products to their consumers at lower cost, enable workers to access more distant labor markets, or enable employers to tap into a wider labor pool themselves.”
- “[T]he reduction in transportation costs that HSR facilitates enables the economic hub to expand so that a wider geographic region becomes integrated.”<sup>77</sup>
- “Bay Area [and Southern California] firms [may] relocate to the Central Valley to benefit from lower property/rental costs and a cheaper labor force.”<sup>78</sup>
- “[L]ower transportation and transaction costs will encourage new businesses to locate in the Central Valley where favorable costs and public policies can encourage business development.”<sup>79</sup>

In fact, while they do not, the Merced-Fresno and Fresno-Bakersfield Draft EIR/EISs (and the Cambridge Systems, Inc. economic growth studies they rely on) might more seriously and explicitly have considered these and other perfectly credible alternative assumptions on growth in the Central Valley. Instead, all of the HSTP growth analyses to date reach the unvarying conclusion that the HSTP generally *will not* cause significant new growth, sprawl, or additional conversion of Central Valley farmland over and above the No Project alternative. Central to this conclusion, however, is the liberal (and wholly unsupported) assumption that local land use decisions in the Valley will inevitably and unquestionably trend toward infill and high-density development.

In a discussion of “Key Assumptions,” however, the same 2008 Cambridge Systematics, Inc. economic growth study that is relied upon in the regional growth chapters of both Draft EIR/EISs observes that “[s]everal assumptions are embedded in the employment and residential land requirements forecasting procedures and their components.”<sup>80</sup> In particular, the study describes one of its key assumptions as follows:

<sup>75</sup> *Id.* at 16.

<sup>76</sup> *Id.* at 18-19.

<sup>77</sup> *Id.* at 21.

<sup>78</sup> *Id.* at 22.

<sup>79</sup> *Id.* at 32.

<sup>80</sup> Cambridge Systematics, Inc., “Economic Growth Effects Analysis for the Bay Area to Central Valley Program-Level Environmental Impact Report and Tier 1 Environmental Impact Statement” at F-4 through F-5. (Note: This study is also relied upon the Merced-Fresno and Fresno-Bakersfield EIR/EISs.)

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Average infill rates and population densities will increase with additional development. It is an axiom of economics that scarce resources are used more intensely than plentiful ones. Following this logic, as available supplies of developable land are used up, developers seek ways to use remaining land more intensely, either by increasing densities or through redevelopment. Thus, both development densities and infill activity should increase with population growth.<sup>81</sup>

Hidden within this “key assumption,” however, is another “key assumption,” as acknowledged in the study itself:

Counteracting this tendency [that is, the tendency that “both development densities and infill activity should increase with population growth”] is the desire of many residents to preserve a rural or suburban lifestyle. Thus, there are many parts of California where infill activity and development densities are below what theory suggests they should be.<sup>82</sup>

The study continues,

For the purposes of analyzing all alternatives, it is assumed that future infill activity and development densities will continue to increase. *To the extent that they do not, additional sites will be needed to accommodate projected population growth.*<sup>83</sup>

Thus, the Merced-Fresno and Fresno-Bakersfield Draft EIR/EISs’ conclusions that the HSTP will have no significant growth inducing impacts is based on a truncated analysis of *just one* (and, notably, the most optimistic) potential scenario. The conclusion that the project will have no significant growth inducing impacts then leads to the conclusion that there is no need to design and select alternatives, or to identify mitigation measures to avoid, minimize, and mitigate the potential growth inducing impacts of the project either. In an area of such significant uncertainty, however, a proper analysis should have considered not just the *most favorable* potential growth scenario for the project, but also the potential for a range of potential scenarios, including the *worst case* growth scenario for Central Valley growth, urban and rural sprawl, and resulting farmland conversion. Neither EIR/EIS addresses the potential for such alternative scenarios—and, thus, both of the EIR/EIS analyses’ of potential growth inducing impacts, including indirect and cumulative impacts to agricultural resources, are fundamentally flawed.

e) Water Supply Impacts

<sup>81</sup> *Ibid.*

<sup>82</sup> *Ibid.*

<sup>83</sup> *Id.* at F-5.

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Both the Merced-Fresno and the Fresno-Bakersfield EIR/EIS ignore two potentially significant project impacts on regional water supplies. The first relates to the issues of potential growth inducement and population growth in the event the EIR/EIS single-sided projections of modest long-term population growth, infill, and increasingly compact development are instead replaced by long-term patterns of significant additional population growth and continued urban, suburban, and rural sprawl. Specifically, in the latter scenario, the EIR/EIS fails to consider the potential for growing urban areas to enter increasingly into direct competition for available water supplies with existing agricultural users. Given the extreme volatility of imported water supplies in recent years, due to both severe regulatory constraints on exports from the Sacramento-San Joaquin Delta and the natural drought cycle, it is quite possible that such competition, during droughts and regulatory cutbacks, could become quite severe. In such a scenario, to the extent municipal and industrial users are given general priority over agricultural users, it is quite possible that the water needs of growing Central Valley cities could displace or preclude deliveries to agricultural users. This could, in turn, result in potential massive losses of permanent crops, as well as temporary and permanent fallowing of Valley farmland generally and loss of jobs in agriculture.

The second issue relates to deep agricultural wells potentially situated along the path of a future HSTP. In addition to the very high cost and difficulty of permitting and constructing such deep agricultural wells, there is the added risk that impacted agricultural water users who might otherwise rely largely or entirely on groundwater in absence of adequate surface water deliveries during a drought or acute regulatory cutback would, in this scenario, have no access to water. If the lands so impacted were, in turn, planted in a permanent tree or vine crop, the farmer farming those lands might lose his entire investment.

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f) Public Utilities and Energy

The impacts from electricity demand discussed in the Chapter 3.6 of the Merced-Fresno Draft EIR/EIS at page 3.6-45, and of the same chapter in the Fresno-Bakersfield Draft EIR/EIS at 3.6-64, overlook a significant impact to agricultural resources that will likely result from the increase in electricity demand from the project. An estimated 480 MW of increased demand, even if spread throughout the system, will pose significant consequences to agricultural resources resulting from siting requirements for both generation and transmission. California law mandates that 33% of electricity demand be met with renewable generation resources by 2020. Much of the renewable generation proposed and planned in California to meet those needs is solar generation, which requires approximately 8 acres of land for development of a MW of generation. As noted in the September 2011 WECC 10 year Regional Transmission Plan current renewable energy trends are centered on accessing resources close to load.<sup>84</sup> Significant pressure and interest for development of new solar power generation facilities in California has been focused on land currently used for agriculture. In 2008, the HSRA commissioned a report

<sup>84</sup> Plan Summary, page 22.

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studying the feasibility of using 100 percent renewable sources of energy for the HST in 2008, including a 100 percent solar scenario.<sup>85</sup> Thereafter, on September 3, 2008, the HSRA adopted a formal policy, committing “to power the train with clean renewable energy, making it the first true zero-emission train in the world.”<sup>86</sup> Thus, at 8 acres per MW, if all 480 MW for the HSTP were met through new solar power generation, the increase in electricity generation needed to meet HSTP demand could convert as many 3,840 acres of productive agricultural land *more* than the Draft EIR/EISs currently assume. Furthermore, any necessary transmission upgrades and extensions to serve the demand and other needs of the HSTP would further impact agricultural resources over and above this amount.<sup>87</sup>

B. Additional Impacts Related to Impacts on Agricultural Resources

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1. Biological Resources

Both the Fresno-Merced and the Fresno-Bakersfield Draft EIR/EISs show that the BNSF alignments north and south of Fresno will impact wildlife and wildlife habitats, including wildlife movement corridors for listed and special status, flightless reptiles, lizards, and mammals (e.g., San Joaquin kit fox, American badger, western spadefoot toad, kangaroo rat, coast horned lizard).<sup>88</sup> As shown in the Draft EIR/EISs, different alignments would impact different species and habitats differently. In general, however, there are certain comparative distinctions that hold generally true for *all* of the proposed alignments:

First, while as noted, *any* of the proposed alignments of the HSTP would impact species and their habitats in *some* degree, a major and fundamental distinction among alternatives relates to the difference between established, heavily-traveled alignments, including urban and urbanizing areas on one hand, and more limited and less intensively-used existing or entirely new corridors and rights-of-way in predominantly rural areas on the other. For example, from Merced to Fresno, a HSTP alternative following a continuous UPRR / SR 99 alignment would have some marginal impacts on some potential remaining habitats or wildlife species along the Highway 99 corridor; however, these impacts would not greatly add to the deleterious effects of urban encroachment and the existing transportation corridor itself, as a major barrier and an on-going source of potential harmful impacts to wildlife habitats and wildlife movement through or around this portion of the Valley.

<sup>85</sup> See Navigant Consulting, Inc. Report, presented to the HSRA on September 3, 2008 (“The Use of Renewable Energy Source To Provide Power To California’s High Speed Rail.”)

<sup>86</sup> See HSRA September 3, 2008 Meeting Minutes at 4 (view on October 11, 2011 at <http://www.calhighspeedrail.ca.gov/assets/0/152/198/9509bcd-f8f9-4030-8aa5-e75b3657b099.pdf>).

<sup>87</sup> For examples of some of the types of demonstrable impacts from transmission siting see San Diego Gas and Electric Company’s Sunrise Powerlink Project Final EIR/EIS dated October 13, 2008 and Southern California Edison’s San Joaquin Cross Valley Loop Final EIR dated February 2010.

<sup>88</sup> See, e.g., Merced-Fresno Draft EIR/EIS at 3.7-20 (Figure 3.7-1), 3.7-28 (Figure 3.7-6), 3.7-34 (Figure 3.7-34); Fresno-Bakersfield Draft EIR/EIS at Figures 3.7-1d, 3.7-2, 3.7-4.

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In contrast, a BNSF alignment north of Fresno would cause significant *new* impacts to wildlife species and their habitat, including the creation of significant *new* barriers to wildlife movement. In particular, the northern portion of the Merced-Fresno BNSF alignment would adversely affect not only various sensitive habitats south and north of the Madera-Merced county line, but would also severely impact a series of “modeled wildlife corridors” and designated “essential connectivity areas.”

Similarly, any impacts to wildlife, wildlife habitats, or wildlife movements corridors of a continuous alignment along the existing BNSF right-of-way from Fresno to Bakersfield would occur along what is already an *existing* hazard and barrier to wildlife movement—whereas impacts along the proposed Wasco-Shafter and Allensworth Bypasses, for example, would further fragment existing habitats and movements corridors in entirely *new* ways, outside any existing transportation corridor or right of way.

Ironically, the Allensworth Bypass option was ostensibly designed precisely to *avoid* impacts to the Allensworth Ecological Preserve, along the BNSF right-of-way (and, also, to a historical landmark in that area). Obviously though, erecting an entirely *new* barrier to wildlife movement will more severely and adversely impact wildlife and wildlife movement and connectivity in this area than constructing a HSTP alignment along the existing BNSF right-of-way, albeit within the Preserve. In contrast, an Allensworth Bypass option would presumably require elevated sections, undercrossings, or other features to address impacts to wildlife movement—and, even then, the effect of an entirely *new* barrier to movement and dispersion would remain much more significant than a straight alignment immediately adjacent to the existing BNSF right-of-way.

Beyond this, the Fresno-Bakersfield Draft EIR/EIS generally describes various potential wildlife and habitat impacts along the proposed BNSF and BNSF bypass proposals, but does not consider a UPRR / SR 99 or any other alternatives. Thus, the Fresno-Bakersfield Draft EIR/EIS provides no basis for comparison in terms of the relative biological impacts of a UPRR / SR 99 alternative versus a BNSF or any of the BNSF bypasses proposals.

For the reasons stated, an alignment along UPRR / SR 99 corridor and right-of-way north of Fresno, and within either the BNSF or the UPRR / SR 99 corridor and right-of-way south of Fresno, would be *the* most consistent with the HSTP’s mandate to utilize existing rights-of-way and avoid impacts to natural and agricultural resources to the maximum extent possible. In contrast, a BNSF, Hybrid, or UPRR / SR 99 bypass option north of Fresno (including the Chowchilla Bypass), or a south-of-Fresno BNSF or UPRR / SR 99 alignment with multiple bypasses, would be inconsistent with these goals. From the standpoint of biological resources, therefore, this would make the least impactful of these alternatives along existing corridors and rights of way the “environmentally superior alternative” under CEQA and the “environmentally preferable alternative” under NEPA.

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2. Wetlands and Waters of United States

As shown in the Merced-Fresno Draft EIR/EIS, the Hybrid, Chowchilla Bypass, Wye 24 and 21 options and, particularly, the BNSF alignments tend, proportionately, to impact *more* natural waterbodies, and also to temporarily and permanently disturb larger areas (thus, resulting in proportionately greater risks of water quality degradation), than a continuous UPRR / SR 99 alignment.<sup>89</sup> For example, the Merced-Fresno UPRR / SR 99 alignment would impact an estimated 20 to 27 natural waterbodies, versus 30 to 37 for the BNSF alignment; 2,370 to 2,484 temporarily disturbed acres, versus 2,717 to 2,995 for the BNSF alignment; and 1,958 to 2,079 acres of permanent footprint, versus 2,400 to 2,557 for the BNSF alignment.<sup>90</sup> These statistics are apparently reflected in the Army Corps of Engineers' and the Environmental Protection Agency's 2008 early concurrence that the UPRR / SR 99 corridor is likely the "preferred network alternative" and "least environmentally damaging practicable alternative" under the Section 404(b)(1) of the Clean Water Act.<sup>91</sup>

To ensure compliance with the Clean Water Act ("CWA"), the HSRA and the FRA must choose those "practicable" alternatives that would have the *least* adverse impact on aquatic systems—here, the UPRR / SR 99 alignment north of Fresno. Furthermore, based on the identified characteristics, a continuous UPRR / SR 99 alignment north of Fresno is likely the "environmentally superior" or "environmentally preferable" alternative under CEQA and NEPA, respectively. Given their legal and regulatory importance, these considerations should weigh heavily in the agencies selection of a preferred alternative north of Fresno.

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IV. Mitigation of Impacts to Agricultural Resources

CEQA requires an EIR to include a reasonable range of alternatives as well as feasible mitigation measures that will lessen the significant impact.<sup>92</sup> CEQA requires a lead agency to adopt feasible alternatives or feasible mitigation measures that can substantially lessen the project's significant environmental impacts.<sup>93</sup> For this reason, "[t]he core of an EIR is the mitigation and alternatives sections."<sup>94</sup> NEPA requires an EIS to discuss the "means to mitigate adverse environmental impacts."<sup>95</sup> Further, mitigation measures must be discussed for all impacts, even those that by themselves would not be considered significant.<sup>96</sup>

<sup>89</sup> See, e.g., Merced-Fresno Draft EIR/EIS at 3.8-24, 3.8-26 (Table 3.8-6), 3.8-28 (Table 3.8-7).

<sup>90</sup> See Merced-Fresno EIR/EIS at 3.8-24, 3.8-26, 3.8-28, 3.8-29.

<sup>91</sup> See Merced-Fresno EIR/EIS at 6-2 (Section 6.3).

<sup>92</sup> Pub. Resources Code, § 21002; Cal. Code Regs., tit. 14, § 15002(a)(3); *Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41 ("Sierra Club I").

<sup>93</sup> *Ibid.*

<sup>94</sup> *Citizens of Goleta Valley v. Board of Supervisors*, *supra*, 52 Cal.3d at p. 564.

<sup>95</sup> 40 C.F.R. 15021.16(h).

<sup>96</sup> Forty Most Asked Questions Concerning CEQ's NEPA Regulations, 46 Fed. Reg 18026 (March 23, 1981), as amended, 51 Fed. Reg. 15618 (April 25, 1986).

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A. Alternative Selection as Mitigation

Both the Merced-Fresno and the Fresno-Bakersfield Draft EIR/EIS propose 1:1 preservation of comparable farmland, compensation for non-economic remnants, and potential consolidation of economic ones. In addition, both EIR/EISs commit to mitigate road closures and other transportation issues by providing new crossings and to compensate and work with landowners to resolve conflicts, to the extent possible, through a proposed right-of-way acquisition process. Ultimately, however, these mitigation measures are inadequate to address the full range of adverse project impacts on agriculture. This, then, is where it becomes very important to recognize that the best way to "mitigate" an impact is to *not cause* that impact in the first place. For the HSTP, as previously described in great detail, avoiding some of the most severe and far-reaching adverse impacts of the project can be accomplished through deliberate design and selection of a preferred alignment. The first line of the defense in avoiding adverse impacts to agricultural resources is, therefore, to deliberately design and select a preferred project alignment to avoid, minimize, and itself mitigate the severity of the project's adverse impacts on the San Joaquin Valley core agricultural lands.

B. Shortcomings Of The Draft EIR/EISs' Proposed Mitigation Measures With Respect To Agricultural Lands

Both Draft EIR/EISs include mitigation measures for expected losses of important farmland, to preserve comparable farmland in same region where the impact occurs at a 1:1 ratio, to acquire non-economic severed parcels, and to consolidate economic ones with adjacent lands. These are helpful gestures. With respect to 1:1 mitigation on comparable farmland, however, as the Draft EIR/EISs acknowledges, 1:1 preservation does not create *new* farmland to replace converted farmland; it only preserves other farmland from conversion from some other cause. Thus, while 1:1 mitigation is certainly helpful, it is of course preferable to avoid and minimize farmland impacts in the first place, through careful design and selection of those alignments that are least impactful and disruptive to existing agricultural resources and operations in the Valley.<sup>97</sup>

With respect to the remnant consolidation measure, while this concept is generally helpful, and may in some cases help to prevent permanent removal of some severed parcels from agriculture, there remain a number of potential concerns regarding this proposed mitigation measure that have yet to be addressed in either the Fresno-Merced or the Fresno-Bakersfield Draft EIR/EIS.

To name one such concern, there is, first, the issue of crop diversity and specialization in the Valley: Thus, for example, a severed parcel might be uniquely suited to a particular type of crop, the existing infrastructure on that parcel might similarly suited to a particular crop, and the

<sup>97</sup> See detailed discussion of "Alternatives" above.

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individual or entity that farmed that parcel may have had special expertise and know-how relating to that crop. In contrast, the owners the adjacent parcels with which the severed parcel might be "consolidated" may in fact have their primary experience with a different crop or crops, or some entirely different type of farming; or perhaps the water sources, soils, or other physical characteristics of the severed parcel are such that it would make the parcel incompatible or unsuitable for consolidation with a neighboring operation.

A second concern relates to the potential impact on the market or assessed value of the separate remnant parcels created by a severance, and on the economic viability and profitability of any continuing operation on either parcel (whether by the same owner, or new owner).

A third concern relates to the potential Williamson Act and Farmland Security Zone implications of a severance, where minimum parcel sizes for Williamson Act and FSZ purposes are 10 acres for prime, and 40 acres of non-prime agriculture lands.

To address this special sub-class of impacts to Williamson Act lands and local agricultural preserves, in addition to any other factors relating to economic viability of a severed parcel, the Fresno-Merced and Fresno-Bakersfield Draft EIR/EISs should adopt a policy to pay just compensation for any remnant parcel of prime agricultural land smaller than 10 acres, and on any parcel smaller than 40 acres for non-prime agricultural lands, as defined in the Government Code, as compensation for the loss of that parcel of land to an existing agricultural preserve.<sup>98</sup>

Finally, it is also important that the Draft EIR/EISs identify specific measures for non-economic remnant parcels that *would not* be eligible for consolidation, to ensure that these parcels do not become a source of weeds and other pests and, thus, a nuisance to adjacent property owners.

C. Land Agency Coordination and Local Land Use Planning Incentives as Mitigation

With respect to the Merced-Fresno and Fresno-Bakersfield sections' potential growth-inducing impacts, as described previously, the Draft EIR/EISs fail in that they advance a single set of unsupported assumptions about the future trajectory of growth to arrive at the fairly incredible conclusion that the project will not only increase growth only very modestly (on the order of 1 to 3 percent), but that the project will in fact greatly benefit the Valley overall, by encouraging more sustainable patterns of compact growth and infill and, thus, *reducing* current estimated of projected future farmland loss by 30,000 acres. This, of course, ignores the obvious potential for an equally plausible, but far less optimistic scenario on future growth, and thus

<sup>98</sup> With respect to Williamson Act and Farmland Security Zone lands that are the potential subject of an eminent domain proceeding, it should be further noted that the condemnor must comply with the specific policies and procedures described in section 51290 and 51292 of the Government Code.

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leads to the false conclusion that the project's impact will be necessarily "less than significant," and will, therefore, require no mitigation.

However, even if one were to accept the proposition that the HSTP, along with sound and responsible local planning, can usher in a wholly unprecedented revolution of green development that will negate any growth-inducing pressure of the project, we submit that the Draft EIR/EISs' weak and non-specific commitment to "encourage," "coordinate" and "work cooperatively" with local governments on sustainable land use planning<sup>99</sup> provides *no assurance* that there is any likelihood whatsoever—much less any certainty—that this is what will, in fact, occur. To remedy this significant weakness, CFBF recommends: (1) that the analyses in the Draft EIR/EISs' analyses of growth-inducing impacts (i.e., "regional growth") be revised to include a range of potential growth scenarios, including a plausible worst-case scenario of continued low-density urban, suburban, and rural sprawl; (2) that the Final EIR/EISs identify such a scenario as a potential significant environmental impact requiring mitigation; (3) that the Final EIR/EISs adopt a mitigation measure requiring formal coordination with local governments (as under a detailed MOU or similarly instrument), specific steps including eventual development of a coordinated plan for sustainable growth, and actual implementation of the plan through enforceable measures, so far as possible within legal and constitutional limits; and, otherwise, through potential financial incentives and disincentives, conditional funding, or other appropriate mechanisms; (4) that any coordinated planning between the HSRA, the FRA, and local governments take a regional perspective, considering and addressing larger trends and patterns of regional patterns of growth, and extending well-beyond any mere downtown infill or economic redevelopment strategy focused solely or primarily on the areas immediately surrounding a HST station.

To elaborate somewhat further, it should be self-evident that perfunctory coordination with city governments on limited cosmetic measures around HSTP stations can hardly exert so great or powerful an influence that, as the Draft EIR/EISs asserts, this alone can somehow magically shape, alter, or even significantly influence larger patterns of growth currently observed in the Valley. In reality, of course, only intelligent planning by responsible city and county governments can accomplish this—and, of course, the HSRA cannot force the local governments to do what they do wish to do themselves.<sup>100</sup> Nonetheless, the sheer size and

<sup>99</sup> See, e.g., Fresno-Bakersfield EIR/EIS at 2-93 through 2-94; Merced-Fresno Draft EIR/EIS at

<sup>100</sup> Specifically, in this regard, it is important to note that CEQA and the California Constitution place express limitations on the extent to which an agency may devise mitigation measures that improperly impinge on the inherent powers of local agencies and governments. Thus, the Article 11, Section 7 of the California Constitution provides that, "A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." (Cal. Const., art. 11, § 7.) CEQA provides that "a public agency may exercise only those express or implied powers provided by law other than [CEQA]." (Pub. Resources Code, § 21004.)<sup>100</sup> Furthermore, mitigation measures must address only those impacts caused by the project.<sup>100</sup> (Cal. Code Regs., tit. 14 § 15126.4(a)(4) ["Agencies shall not require mitigation measures which provide a generalized public benefit unrelated to those impacts or that would do more than fully mitigate the impacts of the project."].)

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ambitiousness of the HSTP suggests that the HSRA can have at least some formal influence on the decisionmaking of local governments in the region, consistent with the HSTP's stated goals to address the potential growth inducing impacts of the project and promote sustainable growth and infill, discourage urban and rural sprawl, etc. To the extent the HSRA and the FRA specifically commit to work with local governments to address the issue of potential growth and Valley sprawl, a reasonable reading of CEQA and NEPA would suggest that this commitment should be more than just words on a page. It should be a meaningful one, that can be actually effective in furthering the sustainable land use and farmland preservation goals the HSRA has expressed espoused and touted as a major, potential benefit of the project.

In summary, then, meaningful mitigation of the project's potential significant growth inducing impacts should be made an *express condition* of both the Merced-Fresno and Fresno-Bakersfield EIR/EISs—and, in the absence of such measures, or a legally adequate showing of infeasibility as required by CEQA, neither document should be approved.

D. Compensation

In terms of compensation and mitigation of socioeconomic impacts such as displacement, the Draft EIR/EISs offer essentially three mechanisms: (1) "just compensation" in an eminent domain proceeding; (2) compensation under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("Uniform Relocation Act" or "Relocation Act"); and (3) less specifically, appropriate compensatory, mitigation, and avoidance measures to be identified in the course of the right-of-way process in the lead up to a condemnation.

While there are established legal processes that govern these transactions, unfortunately all three processes or mechanisms leave many practical issues for affected landowners unaddressed. For agricultural businesses—and, in particular, for dairies, poultry and livestock operations, packing and processing facilities and the like—these issues can be quite significant. The reason for this lies in the difficulty of defining "just compensation" for many intangibles, such as business goodwill, including lost income in the form of an expected return on an operator's long-term investments in his operation, as well as costs of relocation, including (very significantly, in the case of a dairy, poultry or livestock operation) the cost of navigating complicated regulations and obtaining expensive waste management, air, and water quality permits, that are among necessary permits for such an operation. The case is no different (though the costs may be proportionately lower) for a farmer who has invested significantly in irrigation efficiency technology or drainage systems, including tile drains, tailwater return systems, regulating reservoirs, and the like.

There is a major question whether established condemnation and standard valuation procedures can easily or very accurately capture these costs without controversy. Should

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controversy arise (as seems likely), a landowner has no recourse but to contest the matter through costly and time-consuming litigation in court. As for the Uniform Relocation Act, when one begins to examine such concerns, it becomes very quickly apparent that the capped and extremely low compensation amounts offered under this law are quite inadequate.<sup>101</sup> Any condemnation proceeding that must be pursued in court will result in lost time and major litigation costs to landowners, even assuming that all or a portion these costs can be recovered. Of greater significance to the HSRA given the project's extremely aggressive timeline is the significant delay *for all parties involved*.

To address these and other concerns relating to uncertainties regarding "just compensation" of affected agricultural businesses, the first and most convenient option is, of course, that the HSRA and FRA design and select alternatives and facilities to avoid, minimize, and mitigate the need for condemnation in the first place. In those instances where this is not possible, CFBF offers the following suggestions, as potential measures the HSRA *can* and *should* adopt as formal avoidance and mitigation measures in the EIR/EISs:

- The HSRA's initial right-of-way and voluntary and required arbitration procedures should be used, to the extent possible, to head off significant conflicts and disputes *before these disputes get to court*.
- The HSRA should establish a process to work with appropriate agricultural interests and organizations to reach at least some preliminary level of agreement as to what types of intangible or goodwill costs should be accounted for and reflected in the eminent domain valuation process for different classes of potentially impacted agricultural operations, including dairies, feedlots, poultry and livestock operations, agricultural packing and process facilities, permanent trees and vines crops, as well as other types of agricultural operations more generally.

V. Additional Considerations

A. Unmitigable and Unavoidable Potential Significant Environmental Impact

Among certain other impacts, the Merced-Fresno and Fresno-Bakersfield Draft EIR/EISs identify as "unavoidable adverse potentially significant impacts" (that is significant impacts that cannot be reduced to a "less-than significant level" through mitigation) the project's conversions of agricultural land to non-agricultural use, and the project's impacts to biological communities, special-status species, habitat of concern, and wildlife movement corridors.<sup>101</sup>

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<sup>101</sup> See Merced-Fresno Draft EIR/EIS at 6-3; Fresno-Bakersfield Draft EIR/EIS at 6-2 through 6-3.



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Under CEQA, an agency may not “approve or carry out a project” that identifies “one or more significant environmental effects,” without making specific written findings that: (1) “changes or alterations” (i.e., avoidance or minimization through alternatives design and selection and/or mitigation measures) “have been required in, or incorporated into, the project,” which “avoid or substantially lessen” any significant environmental effects identified in the EIR; or (2) that “[s]pecific economic, legal, social, technological, or other considerations” make mitigation measures or project alternatives to lessen a significant environmental impact “infeasible.”<sup>102</sup> CEQA defines a “feasible” alternative or mitigation measure as one that is “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.”<sup>103</sup> The agencies’ findings regarding significant environmental impacts and feasible alternatives and mitigation must be “supported by substantial evidence in the record.”<sup>104</sup>

Beyond this, prior to certifying an EIR, CEQA requires an agency to “balance [...] the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks.”<sup>105</sup> The CEQA Guidelines provide further that, “[i]f the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable.’”<sup>106</sup> And, finally, in approving a project which will “result in the occurrence of significant effects” that are not “avoided or substantially lessened,” the agency must “state in writing the specific reasons to support its action based on the final EIR and/or other information in the record”—that is, make a “statement of overriding considerations,” and support that statement “by substantial evidence in the record.”<sup>107</sup>

From the foregoing it follows that, to make the findings required under CEQA regarding a project’s potential significant effects, an agency’s EIR must first properly identify, evaluate, assess, and analyze a project’s potential significant impacts. Similarly, to make the required findings under CEQA concerning the feasibility or infeasibility of available alternatives and mitigation measures and to support that finding “by substantial evidence in the record,” the agency’s EIR must, again, properly analyze the project’s full extent and nature of the project’s potentially significant environmental impacts. Finally, where one or more environmental effects of a project remain significant and unavoidable, the agency must properly characterize the project’s “economic, legal, social, technological, or other benefits, including potential region-wide and statewide benefits,” in order to weigh those potential benefits against the project’s unavoidable adverse potentially significant impacts.

<sup>102</sup> Cal. Code Regs., tit. 14, § 15091, subd. (a).

<sup>103</sup> *Id.* at § 15364.

<sup>104</sup> *Id.* at § 15091, subd. (b).

<sup>105</sup> *Id.* at § 15093, subd. (a).

<sup>106</sup> *Id.* at § 15093, subd. (b).

<sup>107</sup> *Ibid.*

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Here, the Merced-Fresno and Fresno-Bakersfield Draft EIR/EISs describe various potential benefits of HSTP, including reduced congestion on existing roadways, regional and statewide economic benefits, reduced energy consumption and reduced emissions, more compact, urban-centered development, and improved quality of life.<sup>108</sup> In many cases, however, the extent and likelihood of many of the HSTP’s presumed benefits, as described in the Draft EIR/EISs, is highly uncertain, whereas the Draft EIR/EISs fail to discuss or analyze the relative certainty or uncertainty of the assumption that a particular project benefit will in fact occur. This then results in a relatively weak foundation upon which to build in attempting to gauge the precise extent and nature of the assumed benefits of the project, and in attempting to “balance” those benefits against the project’s potentially significant and unavoidable adverse impacts. Moreover, this required “balancing” of project benefits and significant adverse impacts is further compromised where the EIR not only fails to properly characterize the precise nature and extent of a project’s assumed benefits (including any major uncertainties concerning these potential benefits), but also fails to properly analyze the full nature and extent of the project’s potentially significant adverse impacts.

Areas where assumed benefits in the Draft EIR/EISs become especially tenuous and uncertain (to the extent they are analyzed at all) include, for example, the EIR/EISs’ assumptions regarding ridership, human behavior, ticket pricing, macro-economic market forces, profitability, financing, time to completion, feasibility of completion. All of these areas are characterized by great uncertainty; however, all are factors that greatly influence an assessment of the relative benefits (and detriments) of the project. Yet both Draft EIR/EISs’ analyses of the projects’ environmental benefits and impacts consistently present these uncertainties in only the most favorable light, so as to maximize presumed project benefits, while consistently downplaying or dismissing project potential significant adverse impacts.

A major case in point is the Draft EIR/EISs’ analysis of sections of “Travel Demand and Ridership Forecasts” in both documents’ “Alternatives” chapters.<sup>109</sup> In this section, the Draft EIR/EISs explain how high and low ridership scenarios (based on high and low ticket prices relative to airfares), as well as different ridership scenarios at different stages of build-out. Understanding the environmental trade-offs of the HST at different levels of ridership and at different stages of construction between now and 2035 is important, since it shapes a proper understanding of the potential benefits and impacts of the HST based on a proper consideration of the possibility of a variety of potential scenarios. Throughout the rest of both Draft EIR/EISs, however, these important nuances are lost, and instead virtually all of the EIR/EISs’ analyses impacts and potential benefits are viewed through rose-colored glasses of a high-ridership forecast, at full build-out in 2035.

<sup>108</sup> See, generally, Merced-Fresno and Fresno-Bakersfield Draft EIR/EIS “Project Purpose, Need and Objectives” chapters.

<sup>109</sup> See Merced-Fresno Draft EIR/EIS at 2-89 through 2-93; Fresno-Bakersfield Draft EIR/EIS at 2-87 through 2-90.

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This most optimistic assumption then propagates through the rest of the document. Thus, road congestion, air quality benefits and emissions reductions, and socioeconomic and employment benefits are proportionately lower—whereas *neither* EIR/EIS anywhere discloses the less favorable panorama of environmental relative benefits and impacts under an *equally plausible* lower ridership scenario, including lower, phased ridership levels prior to the assumed full build-out date of 2035. Meanwhile, as described elsewhere herein, both Draft EIR/EISs' assumptions and analyses with respect to potential impacts either generously assume the best-case outcome, while ignoring the potential for less favorable conditions, or otherwise completely omit or dismiss large classes of potential direct, indirect, and cumulative impacts on agricultural resources. The result is a systemic and pervasive bias that presents the project's purported benefits of the project in an extremely favorable light, while sweeping the project's adverse impacts under the proverbial carpet. Of course, this not only seriously compromises the basic informational purpose of the EIR and its impacts analyses; it also makes an eventual statement of overriding considerations wholly unsupported as the Draft EIR/EISs' present evaluation of project and impacts currently stands.

B. Failure To Coordinate With Local Governments and Interests In Designing Selected Alternatives

The Council on Environmental Quality directs federal agencies to conduct joint planning processes, joint environmental research and studies, and joint public hearings with state and local agencies in order to enhance coordination and reduce duplication between NEPA and State and local requirements.<sup>110</sup> As stated throughout both Acts, the purposes of CEQA and NEPA are informed governmental decision making through full public participation. Full public participation includes local governmental agencies. To highlight the need for such participation, an Executive Order was issued on August 26, 2004 stating:

The purpose this order is to ensure that [federal agencies] implement laws relating to the environment and natural resources in a manner that promotes *cooperative conservation, with an emphasis on appropriate inclusion of local participation in federal decisionmaking*, in accordance with [the federal agencies'] respective agency missions, policies, and regulations.<sup>111</sup>

NEPA provides:

- “[...] that it is the continuing policy of the Federal Government, *in cooperation with the State and local governments, and other concerned public and private organizations*, to use *all practical means and measures*, including financial and technical assistance, in a manner calculated to *foster and promote the general welfare, to create and maintain*

<sup>110</sup> See 40 C.F.R. § 1506.2 [emphasis added].

<sup>111</sup> See Executive Order No. 13352, 69 Fed. Reg. 52989 [emphasis added].

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*conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans...*<sup>112</sup>

- “[I]t is the *continuing responsibility* of the Federal Government to use *all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, actions, programs, and resources [...]*,” to, among other aspirations, “*attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences...*”<sup>113</sup>

Of particular relevance to a federal agency design and ultimate selection of a preferred alternative—NEPA provides specific direction as to how potential conflicts with local plans and priorities should be handled in the environmental study. Thus, at 42 USC § 4332(E), the Act mandates that the agency “*study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.*” Moreover, the CEQ guidelines provide that “[a]gencies shall integrate the NEPA process with other planning at the earliest possible time ... to head off potential conflicts.”<sup>114</sup>

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The proposed alignments for both the Merced-Fresno and the Fresno-Bakersfield Draft sections of the HSTP suggest the HSRA and the FRA have made little effort to address the concerns of local governments and local interests, concerning avoidance of impacts to the agricultural resources and agricultural economies of these counties. This is particularly true in the case of Kings County and the proposed BNSF alignment south of Fresno. Although the County of Kings, the City of Hanford, the Kings County Farm Bureau and others have repeatedly and insistently endeavored to alert the HSRA and the FRA to the need to avoid and minimize agricultural impacts, and of the inconsistency of several HSTP alignments with local plans and policies relating to the county's agricultural resources, the alignments considered in the Fresno-Bakersfield Draft EIR/EIS—including the West Hanford alignment just identified on October 6, 2011—evidence little or no concern or effort on the part of the HSRA and the FRA to actually address and resolve these conflicts and concerns to the maximum extent possible. Similar observations might be made with regard to other proposed alignments (notably, for example, the omission of a Wye 152 alignment north of Fresno, and the inclusion of the Chowchilla Bypass and Avenue 21 and 24 Wye alignments). Nowhere, however, it is the problem so obvious as in Kings County, where local concerns and preferences have gone almost wholly unaddressed, either through alternate design of alignments, or consideration of other alternatives in the Draft EIR/EIS.

<sup>112</sup> 42 U.S.C. § 4331(a), emphasis added.

<sup>113</sup> *Id.* at subd. (b), emphasis added.

<sup>114</sup> 40 C.F.R. § 1501.2.

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This lack of responsiveness to specific concerns of the local governments and elected officials, and of the local constituencies and communities of interest that they represent, is in violation of NEPA and CEQA's express policies concerning public participation, avoidance of impacts of important environmental resources and local economies, and coordination and early resolution of potential conflicts. Thus, as specific cases in point, by failing to design and consider alternatives which might avoid impacts to agricultural resources—or to consider a Highway 152 Wye north of Fresno—the Merced-Fresno and Fresno-Bakersfield Draft EIR/EISs fail to fulfill the letter and spirit of the law concerning required coordination with local governments and officials and the local interests these local governments and official represent.

**VI. Conclusion**

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In conclusion, CFBB thanks the Authority for the brief opportunity to review and comment upon the Draft EIR/EISs for the Merced to Fresno and Fresno to Bakersfield segments of the proposed CHSTS. As expressed previously, it is difficult to adequately analyze these voluminous and simultaneously-released documents within the minimal timeframes established by CEQA and NEPA, given the sheer physical size and scope of this massive public undertaking. CFBB has grave concerns over numerous areas of the Draft EIR/EISs, including basic project descriptors and assumptions, the alternatives analyses, and the impacts to agricultural resources. Many of these concerns are being echoed by an overwhelming number of those individuals and organizations within the San Joaquin Valley whom the CHSTS will irrevocably affect, in some cases changing lives and livelihoods.

The HSRA has been frank that its chief motivation in laying down the track as fast as possible is a perceived window for federal funding. It is outside the scope of this letter to speculate on opportunities for funding, or the legislative possibility of extending "deadlines". What is abundantly clear, however, is that CHSTS will change California forever on a landscape level, and that CEQA and NEPA are concerned with physical impacts on the environment and not the perceived imperatives of the public fisc. Under these statutes, the Authority owes the public a full and accurate accounting of project purpose and need, environmental impacts, and possible alternatives – for review on a timeline that makes such disclosure meaningful. Respectfully, CFBB submits that the Authority has opted for a "slam dunk" environmental review, instead.

CFBB urges the Authority to not only fully consider and meaningfully respond to its comments, above, but to also re-open environmental review of the Draft EIR/EISs for the Merced to Fresno and Fresno to Bakersfield segments of the proposed rail line. It is a small price to pay to shape the legacy of future generations.

Thank you again for the opportunity to comment.

Very truly yours,



Christian C. Scheuring  
Managing Counsel

JEF/dkc

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## Response to Submission 706 (Christian Scheuring, October 13, 2011)

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### 706-1

See MF-Response-GENERAL-7.

### 706-2

See MF-Response-AGRICULTURE-1.

Section 3.0 of the Final EIR/EIS has been revised to clarify that the determination of significance for NEPA purposes relies upon consideration of context and intensity. Further, the discussion of NEPA significance in each of the impact sections (3.1 through 3.19) has been revised to clarify how context and intensity have been applied to the determinations.

### 706-3

The Authority and FRA acknowledge that the Farmland Protection Policy Act is a relevant statute. Chapter 3.14 discusses the Farmland Protection Policy Act of 1981 and refers to the implementing guidelines discussed in the comment. As indicated in sections 3.14.2.1 and in 3.14.3, the EIR/EIS utilizes the criteria in the implementing guidelines as part of its methodology for assessing farmland impacts.

See MF-Response-GENERAL-4 and MF-Response-AGRICULTURE-8.

### 706-4

The Authority and FRA acknowledge that NEPA requires a discussion of how the impacts of the project will affect agricultural land and how it is used, as well as how the project will create economic and social consequences related to agricultural land and land use. Chapter 3.14 discusses how the project will impact agricultural lands directly and indirectly. Chapter 3.12 discusses how the project will cause economic and social consequences, including those related to the agricultural economy and jobs base. Chapter 3.13 discusses how the project will affect land use. Finally, Chapter 3.19 discusses cumulative impacts, including the project's incremental contribution to conversion of agricultural lands to non agricultural uses. The EIR/EIS has thus given considerable attention to this important issue. The project's effects on agricultural land and the agricultural economy has not been "overlooked," as the comment cautions against.

MF-Response-GENERAL-4, MF-Response-AGRICULTURE-8.

### 706-5

The Authority and FRA acknowledge that CEQA recognizes agricultural land as part of the existing physical environment subject to analysis. The Authority and FRA similarly acknowledge that CEQA recognizes water resources as part of the existing physical environment subject to analysis. The Authority and FRA disagree, however, with the comment s that the analysis in the EIR/EIS is "largely limited to impacts involving direct conversion of agricultural land." Section 3.14.5 discusses temporary use of agricultural land during construction, temporary utility and infrastructure interruption, temporary noise and vibration effects on farm animals, permanent conversion of agricultural land to nonagricultural use, parcel severance, and effects on land under Williamson Act contracts, Farmland Security Zone contracts, local agricultural zoning, or conservation easements, effects on confined animal agriculture, wind-induced effects on crops, and impacts on aerial spraying practices.

See MF-Response-GENERAL-4, MF-Response-AGRICULTURE-7, MF-Response-AGRICULTURE-8, MF-Response-AGRICULTURE-5, and MF-Response-AGRICULTURE-6.

### 706-6

Streets and Highways Code section 2704.09, subdivision (g) reads in full:

"In order to reduce impacts on communities and the environment, the alignment for the high-speed train system shall follow existing transportation corridors or utility corridors to the extent feasible and shall be financially viable, as determined by the Authority."

The planning for the high-speed train system in the Merced to Fresno section has followed this provision of Proposition 1A. As explained in Chapter 2, Alternatives, of the EIR/EIS, it is not possible to align the HST system with existing transportation or utility corridors in all instances. The alternatives described in the EIR/EIS represent different alignments that adhere to existing transportation corridors to differing degrees. Because the Authority and FRA have three potentially feasible alignments that largely adhere to existing transportation corridors, the agencies eliminated the Western Madera alternative from consideration, precisely because of the far larger direct and indirect impacts on prime agricultural and the potential for sprawl.

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## Response to Submission 706 (Christian Scheuring, October 13, 2011) - Continued

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### **706-7**

Proposition 1A specifically provides that existing corridors are to be followed "to the extent feasible." The Authority has determined that in some locations, it is infeasible to stay within existing transportation or utility corridors. See MF-Response-GENERAL-2.

The Authority is required to balance the various provisions of Proposition 1A and the EIR/EIS explains the environmental impacts inherent in the three build-alternatives that it analyzes. This provides the Authority with sufficient information about the impacts to make an informed, reasoned choice.

### **706-8**

The comment presents the view that the lead agencies cannot consider the costs associated with locating an alignment along an existing transportation corridor as a project cost to differentiate between alternatives, and that alternatives that maximum use of existing transportation corridors cannot be dismissed from selection based on being more costly. As explained in Chapter 7, Preferred Alternative, the identification of the Hybrid alignment as the preferred north/south alignment alternative has been based on a careful weighing of multiple factors, including but not limited to impacts to the natural environment, impacts to agricultural lands, and impacts to communities as well as cost and constructability issues. Cost is one factor among many that has influenced identification of the Hybrid as the preferred alternative.

### **706-9**

The Authority and FRA acknowledge the requirement for the EIR/EIS to analyze a range of reasonable alternatives to the project, or to the location of the project. The Authority and FRA disagree with the suggestion that that the EIR/EIS does not include a range of reasonable alternatives.

See MF-Response-GENERAL-2.

### **706-10**

See MF-Response-GENERAL-2 and MF-Response-GENERAL-10. Please also see Final EIR/EIS Chapter 7 which identifies the Agencies's Preferred Alternative, provides an evaluation of the alternatives analyzed in the document and provides a comparative analysis of the potential impacts by HST alternative. See also MF-Response-

### **706-10**

GENERAL-15 regarding the HMF decision.

### **706-11**

The comment suggests that the project EIR/EIS may be piecemealed by not including detailed consideration of the SR 152 east/west connection and Wyes. The Authority and FRA have included detailed examination of the Avenue 21 and Avenue 24 east/west and Wye connections in the Merced to Fresno section EIR/EIS. To provide for additional study of these east/west and Wye connections, as well as an additional SR 152 east/west and Wye connection, the lead agencies will carry forward all three to the San Jose to Merced Draft EIR/EIS. No decision will be made on the east/west connection and wye until completion of the additional evaluation. All three north/south alignment alternatives can be connected with any of the three east/west connections and Wyes (Ave 21, Ave 24, and SR 152), therefore, the lead agencies' decision on the north/south alignment will not prejudice full consideration of all three east/west and wye alternatives. Piecemealing occurs when a large project is segregated into multiple smaller pieces as a method of avoiding environmental review. That is not the case here, where the decision making and environmental review process are crafted to promote the fullest environmental review by including the SR 152 alternative prior to any decision on the east/west connection and wye. See MF-Response-GENERAL-15, MF-Response-GENERAL-16, and MF-Response-GENERAL-22.

### **706-12**

The Draft EIR/EIS analyzes farmland loss in Section 3.14, Agricultural Lands, and addresses regional economic effects (including effects on agriculture) in Section 3.12, Socioeconomics, Communities, and Environmental Justice. This is typical for an environmental impact assessment document - analyze impacts by resource rather than by community (e.g., impacts to farming). Although the focus of Section 3.14 is on farmland and farmland loss, there is extensive information about indirect impacts - effects of the project (e.g., wind, noise) that could exacerbate the direct farmland losses summarized in Table 3.14-5. In response to comments, impacts are further described (both from the perspective of farmland loss and economic consequences) in MF-Response-GENERAL-4. Also see MF-Response-GENERAL-3 in response to the comment on growth inducement. With regard to dairies, see MF-Response-AGRICULTURE-6.

## Response to Submission 706 (Christian Scheuring, October 13, 2011) - Continued

### 706-13

See MF-Response-GENERAL-3.

The information in Section 3.18, Regional Growth, which reflects the HST induced population and employment growth is based upon the 2010 growth inducement work performed by Cambridge Systematics, Inc., a firm specializing in this type of analysis. The analysis used 2007 California Department of Finance (CDPF) data series for base population forecasts, and information from Woods & Poole 2010 State Profile for base employment forecasts. Growth inducement was forecast using the higher of the two projected growth rates for each county from the 2003 and 2007 reports prepared by Cambridge Systematics, Inc. and referenced in Section 3.18. The 2007 data sets from the CDOF are still posted on their website as their current long-range population forecast and are not anticipated to be updated until 2013. The numbers used in the analysis do not reflect the economic downturn that has affected California, so the numbers in Section 3.18 reflect a more optimistic scenario for population and employment and are probably reflect higher levels of growth inducement than would be predicted if the analysis was performed with revised data.

The HST Project would serve the existing and future need for transportation, would help to provide employment opportunities in a region with high unemployment, and would encourage more compact urban development around the station areas. The increases in employment are anticipated to occur faster than the growth in population as a result of the stimulation effect of the HST Project especially in the station areas. Operation of the HST Project would also attract people who would live in the Central Valley and commute to the major metropolitan areas; however, much of the employment growth in the Central Valley is expected to be filled by the local labor pool. The HST will not lead to wholesale shift in residential locations for the Bay Area and Los Angeles into the Central Valley and any interregional shifts in residential locations are expected to be a small portion of the growth expected in the Central Valley (Cambridge Systematics Inc. 2003). The costs associated with taken a daily trip to and from the larger metropolitan areas as well as the other costs associated with traveling to and from the stations if the residency is outside of the station area would be cost prohibitive.

New text has been added to Section 3.18, Regional Growth, to discuss Senate Bill (SB) 375 Sustainable Communities Strategies. SB 375 (2008) requires each of California's 18 Metropolitan Planning Organizations to adopt a "sustainable communities strategy"

### 706-13

(SCS) or "alternative planning strategy" (APS) as part of their regional transportation plan. The purpose of the SCS or APS is to reduce greenhouse gas emissions from automobiles and light trucks within their region to meet emissions targets set by the California Air Resources Board. One element is to identify areas within the region sufficient to house all the population of the region, including all economic segments of the population, over the course of the planning period of the regional transportation plan taking into account net migration into the region, population growth, household formation and employment growth. SB 375 grants no new land use powers to the MPOs. However, in order to meet the assigned emissions reduction targets, the SCS or APS is expected to call for more compact development patterns that can be served by transit and other modes of transportation. These development patterns will be encouraged by the requirement that the SCS or APS both reduce greenhouse gas emissions (which are linked to vehicle miles travelled) and plan to accommodate regional housing needs (which are expected to continue to increase). Unlike the San Joaquin Valley Blueprint described in Section 3.18, Regional Growth, preparation of the SCS is mandated by law and the ability of each SCS to meet the emissions reduction target for the San Joaquin Valley must be reviewed and approved by the Air Resources Board. If implementation of the SCS would not meet the target, then the MPO must adopt an APS that would. However, the APS is not a required component of the regional transportation plan and therefore would be less likely to be implemented.

The SB 375-mandated SCS in each county will likely rely upon HST development to help reach its greenhouse gas emissions reduction targets of 5% by 2020 and 10% by 2035. The SCS process, together with steps the Authority will take to assist with station area planning, is expected to encourage more compact development within the region and particularly around HST station locations. In addition, the Authority is funding station area planning grants for the cities of Merced and Fresno. At this writing, the cities are in the final stages of approving their acceptance of this funding. It will be used to prepare land use plans for the areas around the stations, including compact development and mixed uses compatible with the Authority's Urban Design Guidelines. While much of the growth in the station areas is a result of market forces, government involvement through a number of strategies can help to speed up the process including higher density mixed use zoning. In addition to SB 375 and SCS strategies encouraging more compact development, recent studies indicate that changes in the California housing market along with market forces would support higher density, more compact development

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## Response to Submission 706 (Christian Scheuring, October 13, 2011) - Continued

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### 706-13

around HST stations.

Even without the HST Project, to some extent, the SCS that will be adopted by the MPOs as part of their regional transportation plans will be expected to encourage both more compact development and greater investment in local transit modes as a means of reducing greenhouse gas emissions. Where an APS is adopted by the MPO, there may be less encouragement of compact development. In either case, the fact that the SCS/APS will address reduction on greenhouse gas emissions will encourage cities and counties to consider its provisions during planning and zoning deliberations in order to comply with CEQA's requirement to mitigate the impacts of planning and zoning decisions on greenhouse gas emissions. The San Joaquin Valley Blueprint, which is voluntary not mandatory, is also expected to encourage more compact development, but the extent of any increase in compact development will be difficult to quantify unless the city or county chooses to adopt the Blueprint policies as part of its general plan.

To address the bullets related to the 2008 report, The Economic Impact of the California High Speed Rail in the Sacramento/Central Valley Area, Section 3.18 provides information to illustrate the population forecasts for the Central Valley and how the area is expected to grow with and without the HST Project. The 2008 report cited also indicates that when considering the regions as a whole, HSR would only add modestly to these growth rates, which is consistent with the information in Section 3.18. Text in section 3.18 also provides information that although some people may commute with the HST, the costs associated with taken a daily trip to and from the larger metropolitan areas as well as the other costs associated with traveling to and from the stations if the residency is outside of the station area would be cost prohibitive, and therefore not likely for a large portion of the population. The employment opportunities that would be created by the HST Project would be a good thing for the Central Valley region which lags behind the rest of California as discussed in the 2008 report. The report also indicates how Merced and Madera counties will benefit from the HST Project. The HST Project would link the major metropolitan areas in California. Additionally, several of the quotes taken from the 2008 report are out of context with the actually intention of the text in the report. These include the quote discussing firms relocating to the Central Valley. When the entire section is read the report discusses that the lower transportation and transaction costs are one of the more important anticipated benefits that the Central Valley will experience.

### 706-13

The key assumption in the 2007 Cambridge Systematics report discussed is stating that although increases in density are likely there will be areas with or without the HST Project where certain populations will not want to live in dense/compact development. Population growth in the Central Valley is going to occur even without the HST Project and population will either choose to live in areas of higher density or outside of these areas. As discussed above, the numbers used in the analysis do not reflect the economic downturn that has affected California, so the analysis performed by Cambridge Systematics reflects a more optimistic scenario for population and employment and are probably reflect higher levels of growth inducement.

### 706-14

With regard to regional water supply impacts, see MF-Response-WATER-4, which states that regional groundwater impacts would be negligible (and potentially beneficial). Also see MF-Response-GENERAL-3 for a discussion of growth-inducing impacts.

Potential impacts to on-farm infrastructure, including wells, are addressed in MF-Response-AGRICULTURE-4.

### 706-15

The project would be served by PG&E, utilizing existing energy capacity. See MF-Response-PUE-3 for a discussion on the potential impacts to energy demand resulting from the HST System. Transmission lines and substations required to connect the HST to existing infrastructure are included in the footprint analyzed in the EIR/EIS.

Power for the HST Project will come from the electrical grid. As a result, the specific location of the generation facilities that will provide this power cannot be known. Similarly, it is not possible to know the location or characteristics of future generation plants, solar energy facilities, or other sources of power supplied to the grid. Therefore, these cannot be analyzed as part of this EIR/EIS without resorting to unreasonable levels of speculation. Any future power generation facilities needed by PG&E to supply the power commitment will be analyzed separately for potential environmental impacts. See MF-Response-PUE-4 for a discussion of the Authority's renewable energy policy.

## Response to Submission 706 (Christian Scheuring, October 13, 2011) - Continued

### **706-16**

See MF-Response-GENERAL-2: Alternatives and MF-Response-GENERAL-16: Decision on Wye.

It is important to recognize that the all of the alternatives are a barrier to wildlife movement where it occurs, although it is acknowledged that the Eastman Lake-Bear Creek Essential Connectivity Area (ECA), though considered a linkage, also has restrictions within the existing landscape. The most effective alignment includes those alternatives that have the shortest route across the linkage and presumably less of a barrier effect. The BNSF Alternative has the longest potential barrier across this linkage. In addition it has the most watercourses/riparian corridor crossings as well within the linkage. Wildlife crossing opportunities includes those where the locations of the bridges and culverts are placed and represent some dispersal opportunities.

The best UPRR/SR 99 alternative for habitat connectivity is the East Chowchilla design option and Ave 21 Wye as it crosses Deadman Creek once and Dutchman Creek once with no other access road crossing inside the ECA. This design option also includes five canal/culverts at grade, which are very low value crossings. For the Hybrid Alternative, similar to that for the UPRR/SR 99, the Ave 21 design option is best since it crosses just once at the Deadman Creek and Dutchman Creek locations, whereas the Hybrid Alternative with Ave 24 design option has three crossings including two at Dutchman Creek.

The BNSF Alternative has the most crossings of all of the alternatives along the watercourses and has the most length of barrier effect within the ECA. The Mission Avenue East of Le Grand with both wye options have the fewest crossings and would likely have less conflict with wildlife movement compared to the other design options. No culverts or bridges are provided over natural watercourses in the other modeled wildlife corridor limits.

The USACE and EPA have concurred with the Authority/FRA that, for purposes of the Section 404 CWA permit, the Hybrid is the least environmentally damaging practicable alternative. This determination is largely based on the comparative impacts of the three alternatives on Waters of the U.S. and biological resources.

Section 3.7 of the EIR/EIS addresses wildlife movement.

### **706-16**

The alternatives all have substantial effects on the Waters of the U.S. (aquatic communities) and the BNSF Alternative has the most acreage including its location more in the upstream gradient of the local watersheds. In addition to the larger acreage for the BNSF Alternative it also crosses more aquatic resources/drainages at key locations such as within the Eastman Lake-Bear Creek Essential Connectivity Area and at locations where there are other complementary regional resources such as vernal pools. The UPRR/SR99 and Hybrid Alternatives have less acreage affected, and although the UPRR/SR99 Alternative has slightly less acreage impacted compared to the Hybrid Alternative, they both impact similar resources in proximity.

Riparian communities include the broader linear drainages that comprise the Great Valley mixed riparian and other riparian communities. These communities include the vegetated portions of the outer edges of the natural watercourses as well as along the banks and are generally utilized as dispersal corridors and linear features that funnel some wildlife movement. The range of acreages representative of the direct and indirect effect is similarly among the project alternatives.

The EIR/EIS addresses both the construction and project period impacts in acres by terrestrial and aquatic communities in Section 3.7.

### **706-17**

See MF-Response-GENERAL-2, MF-Response-GENERAL-3, MF-Response-GENERAL-4 and MF-Response-AGRICULTURE-3. All feasible alternative alignments in the Central Valley are likely to have significant and unavoidable farmland impacts. Section 3.18 of the EIR/EIS analyzed the HST project's potential to significantly induce growth and concluded that it will not result in a significant increase in the growth already anticipated to occur in the San Joaquin Valley. Because this impact was found to be less than significant, no discrete mitigation measures are required for growth inducement.

Regarding the suggestion that the EIR/EIS make mitigation of the project's growth inducing impact an express condition, the EIR/EIS has already incorporated numerous mitigation measures that will limit the project's impacts on transportation, agricultural conversion, and other significant impacts to the extent feasible.



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Response to Submission 706 (Christian Scheuring, October 13, 2011) - Continued

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**706-18**

The commenter discusses topics relative to the Authority's eventual need to adopt Findings of Fact and a Statement of Overriding Considerations, specifically with regard to significant and unavoidable impacts. With regard to the characterization of "precise nature and extent of the project's assumed benefits," see MF-Response-GENERAL-3, MF-Response-GENERAL-6, MF-Response-GENERAL-14, and MF-Response-AQ-2.

With regard to the commenter's statement that the Draft EIR/EIS "otherwise completely omit[s] or dismiss[es] large classes of potential direct, indirect, and cumulative impacts on agricultural resources," see the responses to the prior comments in this letter.

With regard to comments about weighing the project benefits against its unavoidable environmental impacts, at this time the Authority will not respond to comments that speak to documents that have not yet been prepared (Findings of Fact and Statement of Overriding Considerations).

The analyses in the Final EIR/EIS that are related to ridership have been updated to reflect two ridership scenarios—one with fares at 50% of airfare prices, and one at 83% of airfare prices, in order to provide a range of potential impacts.

**706-19**

The Authority has received and considered a multitude of comments and suggestions during the process of developing the alternative alignments for this HST section. However, it is the Authority's sole responsibility under its enabling legislation to determine the location of the potential alignments and, eventually, to select an alignment from among them. The selection involves balancing, among other things, the Authority's statutory responsibilities and obligations under its enabling legislation and Proposition 1A (including objectives and purpose and need), CEQA and NEPA, and other applicable regulatory requirements; the environmental impacts of the project, including impacts on both the natural and human environment; the cost of the project; the feasibility and complexity of building the HST section; and the relationship of this section to the HST system as a whole.

See MF-Response-GENERAL-2 regarding the selection of alternatives, MF-Response-GENERAL-17 regarding public outreach, and MF-Response-GENERAL-16 regarding

**706-19**

the deferred decision on the Wye.

**706-20**

The environmental process for the HST System has been underway for nearly a decade, as evidenced by the 2005 certification of the Program EIR/EIS. While there is a deadline for commitment of federal ARRA funding for the Central Valley sections, this is not driving the timing of the EIR/EIS for the Merced to Fresno section any unreasonable manner. CEQA is not intended to be a drawn-out process, but rather a timely analysis of potential project impacts, consideration of alternatives, and identification of feasible mitigation measures. This is evidenced by Public Resources Code Section 21151.5, which directs local agencies to complete EIRs for private projects within 1 year. While not directly applicable to this project, Section 21151.5 illustrates the Legislature's encouragement of completion of the process within a reasonable period.

See MF-Response-GENERAL-1 regarding the long process of designing and undertaking environmental analysis of this project and MF-Response-GENERAL-7 regarding the adequacy of the public review period.

Submission 678 (Lance Shebelut, October 13, 2011)

Merced - Fresno - RECORD #678 DETAIL

Status : Action Pending  
Record Date : 10/13/2011  
Response Requested :  
Stakeholder Type : Business  
Submission Date : 10/13/2011  
Submission Method : Website  
First Name : Lance  
Last Name : Shebelut  
Professional Title : Partner  
Business/Organization : Del Shebelut Farms  
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Apt./Suite No. :  
City : Madera  
State : CA  
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Cell Phone :  
Email Subscription : Merced - Fresno  
Add to Mailing List : Yes  
Stakeholder  
Comments/Issues :  
EIR/EIS Comment : Yes

678-1

As a small family farm in the Madera area I feel that my farm is being unfairly hampered in several of the plans. There is a proposed overpass on one parcel that takes a large amount of property as well as making an island that would be impossible to farm efficiently. It crosses another parcel creating another island again making it impossible to farm. We farm permanent planting mostly treefruit which is unusual in Madera county and employ large numbers of people per acre in relationship to other crops farmed in the area. Del Shebelut Farms is also one of the few farms where the majority interest is held by women and I would hate to see a family operation like this which has given so much to the local economy hurt by this project.

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Response to Submission 678 (Lance Shebelut, October 13, 2011)

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**678-1**

See MF-Response-SOCIAL-1 and MF-Response-AGRICULTURE-3.

Submission 627 (Al Sheeter, October 13, 2011)

Merced - Fresno - RECORD #627 DETAIL

Status : Action Pending  
Record Date : 10/13/2011  
Response Requested :  
Stakeholder Type : Business  
Submission Date : 10/13/2011  
Submission Method : Website  
First Name : Al  
Last Name : Sheeter  
Professional Title : Manager  
Business/Organization : Mordecai Ranch  
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City : Madera  
State : CA  
Zip Code : 93639  
Telephone : 559.232.2083  
Email : al@mordecairanch.com  
Cell Phone :  
Email Subscription : Merced - Fresno  
Add to Mailing List : Yes

Stakeholder  
Comments/Issues :

Mordecai Ranch  
P.O. Box 660  
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October 12, 2011

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

Merced to Fresno Draft EIR/EIS Comments

The Mordecai family, represented by the undersigned as well as other family members, has previously submitted comments to the High Speed Rail Authority (Authority) in letters dated November 5, 2009, December 3, 2009, December 17, 2009 (2 separate letters this date), December 17, 2009, January 7, 2010, April 8, 2010, June 3, 2010, and December 20, 2010, attached to the end of this comment letter for reference.

An early high speed train (HST) route alternatives through Madera County involved carving out a new transportation corridor on the west side of Madera County that did not follow any established transportation corridor. This route, known as the A3, was ultimately taken off the alternative list in April of 2011. If carried forward, the A3 route alternative would have bifurcated and destroyed untold acres of prime farmland, including our holdings that has been in our family since the 1800's, with little regard for impacts to agriculture and the numerous other factors disqualifying the western Madera County HST alignment alternative from consideration. The Authority admits same in the Draft Merced To Fresno Draft EIR/EIS, Volume I, dated August 2011 (DEIS/EIR), Section 2.3.2-20. "In the Preliminary Alternatives Analysis, Western Madera (A3) and UPRR/BNSF Hybrid (A4) alternatives were removed from further consideration because they departed from existing transportation corridors, thereby causing new transportation corridors among highly productive agriculture lands. Doing so would have the potential to reduce the viability of surrounding farmlands, giving way to other uses such as other transportation and utility infrastructure that could result in unwanted and unplanned growth patterns."

Now the Authority must consider other route alternatives chronicled in the DEIS/EIR. Please consider the following:

Impact to Agriculture/Farmland

The Authority's statement as it pertains to the A3 as listed above should be considered wherever a route alternative in Madera County is considered that deviates from an established transportation corridor and impacts farmland. This statement notwithstanding, the Authority should also consider all impacts to agriculture farmland even when route alternatives in Madera County follow existing transportation corridors.

Agriculture is the economic engine of Madera County, as chronicled in the Madera County 2010 Agricultural Crop Report:

"The gross value of Madera County's agricultural production in 2010 was \$1,348,505,000. This represents an overall increase of \$384,969,000 (39.9%) over the revised 2009 production levels.

The Fruit and Nut Crop category was largely responsible for pushing production levels back over the billion dollar mark with a remarkable 50.8% increase. Leading the way in this category was the number one

627-1

Submission 627 (Al Sheeter, October 13, 2011) - Continued

627-1	commodity, almonds (nuts and hulls) valued at \$270,916,000. Pistachios made a strong comeback from 2009 with a 192% increase to \$239,702,000. Dairy prices rebounded and milk remained the third ranking commodity with an overall value of \$236,610,000. Grapes showed modest gains despite reduced acreage but dropped to the number four position at \$232,740,000. Cattle and calves remained Madera County's fifth highest individual commodity at \$43,586,000."	627-6	County? The project's path travels north to south, as described in the current DEIR/EIS and eventually east to west, as will be covered in the San Jose to Merced section DEIR/EIS purportedly going to be issued in spring of 2012. So while Madera County gets sliced and diced by the HST's footprint, there is no access in Madera County to the HST and the opportunity for commerce and/or employment generated by project for Madera County residents is extremely limited. In section 3:12-31, Social Economics, the Authority state benefits would "economically benefit cities and counties by attracting new employment opportunities and those who live and work near the HST stations. Again, Madera County does not have a station. And the Authority did little to analyze the available work force in Madera County and the possibilities that the educational backgrounds and employment training of said work force will meet or surpass the needs and standards set by jobs created by the project.
627-2	In section 3:14 (Agriculture), the impact to Madera County farmland in the DEIR/EIS is minimized by not fully exploring the hardships caused by the loss of any portion of a agricultural parcel can have on farming operations or the significant challenges caused by the scope of the project on surrounding farmland. For example, a loss of one acre of farmland containing a deep well can cause great damage to tens if not hundreds of acres, causing undue hardship and loss of revenue for the farmer as well as the loss of a tax base for Madera County. Another example would be the significant hindrance to farming operations caused by road closings and other transportation circulation issues caused by the HST. This is in addition to undocumented agricultural impacts to Madera County through loss of employment and commerce caused by the project.	627-7	In the same paragraph, the DEIR/EIS state another benefit of the project would be "improved mobility in the region, improved traffic conditions on freeways as people increasingly use HSTs, and improvements in air quality in the region." Any use of the HST or travel to a job created by the project will necessitate the use of a vehicle to get to the access point of the HST or the job site, thus creating more traffic and congestion in Madera County, a direct refutation of the DEIR/EIS claims. Additionally, due to the insufficient mitigation measures the Authority plans for Madera County for transportation circulation problems caused by the closed rail lines of the HST, especially in rural areas consisting of mainly farmland, traffic congestion and air pollution will increase in Madera County, destroying one of the benefits of our rural way of life.
627-3	Additionally, the Authority has failed and/or minimized the potential impact to water distribution systems impacted by the Project, including groundwater and surface water distribution systems. There is also a failure to consider subsidence as an issue of concern.		
627-4	The outreach to the agricultural community by the Authority to gather reliable information, discuss route alternatives, and proper mitigation has been dismal at best. The Authority as a whole has acted with a pervasive lack of regard for the affected region's number one industry. While the Authority may be able to show that it held a number of workshops and/or meetings with the agricultural industry leading up to the DEIR/EIS, many of those same workshops/outreach meetings that I attended were nothing more than 'lip service' that enabled the Authority to check off a box that these workshops were held. This being said, I would be remiss not to mention that I found several individuals employed directly or indirectly by the Authority to be compassionate and understanding toward that agricultural community and as frustrated by the general disdain shown by the Authority toward agriculture as farmers and agricultural leaders alike.	627-8	Additional environmental and safety concerns caused by the project are noise pollution, availability and access of fire protection and law enforcement to rural and urban areas, destruction of visual and historical aspects of our region, destruction of wetlands and wildlife habitat including wildlife migration corridors, and air quality issues.
627-5	In summary, the Authority has failed in its responsibility to consider the overall importance of agriculture and said industry's great importance to Madera County specifically and the Central Valley in general. The Authority should properly identify the importance of agriculture in all aspects of Madera County and the Central Valley region, seek to stop or minimize any and all impacts to agriculture in Madera County and the Central Valley Region caused by this project, and seek out proper information to provide superior mitigation responses should impacts and/or damages incur to agriculture in Madera County and the Central Valley Region.	627-9	Superior mitigation response from the Authority is appropriate in addressing concerns about the rural lifestyle in terms of socioeconomics, community planning, and environmental justice in Madera County and the Central Valley region.
627-6	Impact To Rural Lifestyle  Madera County provides a rural lifestyle not often found in today's hectic world--quiet evenings, congenial hospitality among neighbors, and a respite from many of today's social ills that threaten a healthy and fulfilling life. Now the HST is being touted as an added benefit for our mainly rural population.	627-10	Statutory Review Period  Although CEQA provides for minimum 45 day statutory review period for DEIR/EIS and the Authority increased said review period to 60 days, I feel this is grossly inadequate considering the breadth and scope of the information contained in the DEIR/EIS.
627-6	What exactly are the benefits that this project will bring to Madera		Final Thoughts  The Project as now planned brings little or no positive benefit to Madera County. To minimize negative impacts, the Authority should closely follow existing transportation corridors, especially as the Project runs east/west by paralleling Highway 152, and provide superior mitigation for all negative impacts incurred by Madera County, including but not limited to impacts to residents, businesses with an emphasis on agriculture, infrastructure, lands, habitats and resources, and governing agencies. Additionally, the Authority should make every effort to better Madera County and its cities and communities, including but not limited to the betterment of residents, businesses with an emphasis on agriculture, infrastructure, lands, habitats and resources, and governing agencies, as a condition of building the Project with Madera County boundaries because of its lack of positive benefits to said region.

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Submission 627 (Al Sheeter, October 13, 2011) - Continued

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Please feel free to contact me at your convenience if you have any questions.

Sincerely,

Al Sheeter  
Mordecai Ranch  
Yes

EIR/EIS Comment :

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## Response to Submission 627 (Al Sheeter, October 13, 2011)

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**627-1**

See MF-Response-GENERAL-2 and MF-Response-GENERAL-4.

**627-2**

See MF-Response-GENERAL-4, MF-Response-AGRICULTURE-2, and MF-Response-AGRICULTURE-4.

See also the response to comment #1087 regarding the issue of subsidence.

**627-3**

With regard to water distribution systems, see MF-Response-AGRICULTURE-4. With regard to subsidence, see additional text added to Section 3.9 (Geology, Soils, and Seismicity) in response to this and similar comments.

**627-4**

See MF-Response-GENERAL-17.

**627-5**

See MF-Response-AGRICULTURE-1 and MF-Response-GENERAL-4.

**627-6**

See MF-Response-GENERAL-5. The HST project includes a number of benefits for those populations not in close proximity to the HST stations including employment opportunities, improvement in access to the larger metropolitan areas, improvements in air quality, and decreased automobile congestion.

**627-7**

See MF-Response-TRAFFIC-3.

The design of HST allows for the continued operation of major arterials. Therefore, no additional traffic analysis was deemed necessary.

**627-8**

See MF-Response-GENERAL-1 and MF-Response-GENERAL-5.

**627-9**

See MF-Response-GENERAL-7.

**627-10**

See MF-Response-GENERAL-2 and MF-Response-GENERAL-5.

Submission 83 (Sharon Shelgren, September 6, 2011)

Merced - Fresno - RECORD #83 DETAIL

Status : No Action Required  
Record Date : 9/6/2011  
Response Requested :  
Stakeholder Type : CA Resident  
Submission Date : 9/6/2011  
Submission Method : Project Email  
First Name : Sharon  
Last Name : Shelgren  
Professional Title :  
Business/Organization :  
Address :  
Apt./Suite No. :  
City :  
State : CA  
Zip Code : 95814  
Telephone :  
Email : sshelgren@comptraining.com  
Cell Phone :  
Email Subscription :  
Add to Mailing List :

83-1

Stakeholder  
Comments/Issues :

I feel the project is ill-advised. Why are we going backward in technology instead of forward? Also, my understanding is that only union workers can be employed because of the dollar amount given by the federal government, in addition, we as a State cannot afford such an undertaking with no rates of return.

83-2

No one wants to live in Fresno or Merced. They are farming communities and as such must be maintained to feed the population, not grow office buildings and tract homes as a product. Definitely not sustainable.

Sharon Shelgren  
President  
Computer Training Consultant  
1245 S Winchester Blvd. Ste 300  
San Jose, CA 95128

ph. 408.380.0600  
fx. 408.380.0603  
cell 408.406.8909

EIR/EIS Comment :



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Response to Submission 83 (Sharon Shelgren, September 6, 2011)

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**83-1**

See MF-Response-GENERAL-14, MF-Response-GENERAL-19, and MF-Response-GENERAL-18.

**83-2**

See MF-Response-GENERAL-14.

Submission 479 (Shawn Shiralian, October 8, 2011)

Merced - Fresno - RECORD #479 DETAIL

Status : Action Pending  
Record Date : 10/8/2011  
Response Requested :  
Stakeholder Type : Business  
Submission Date : 10/8/2011  
Submission Method : Website  
First Name : Shawn  
Last Name : Shiralian  
Professional Title :  
Business/Organization :  
Address :  
Apt./Suite No. :  
City : Fresno  
State : CA  
Zip Code : 93722  
Telephone : (559) 994-3558  
Email : e-ztrip@msn.com  
Cell Phone :  
Email Subscription : Merced - Fresno  
Add to Mailing List : Yes  
Stakeholder Comments/Issues : This rout is effecting a lots of businesses and land owners on Golden State BLVD. You need to find alternate rout.  
EIR/EIS Comment : Yes

479-1 |

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Response to Submission 479 (Shawn Shiralian, October 8, 2011)

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**479-1**

See MF-Response-SOCIAL-1 and See MF-Response-SOCIAL-3.

Submission 392 (Baljit Singh, October 2, 2011)

Merced - Fresno - RECORD #392 DETAIL

Status : No Action Required  
Record Date : 10/2/2011  
Response Requested :  
Stakeholder Type : Business Opportunity Notices  
Submission Date : 10/2/2011  
Submission Method : Website  
First Name : Baljit  
Last Name : Singh  
Professional Title :  
Business/Organization :  
Address :  
County :  
Apt./Suite No. :  
City : Caruthers  
State : CA  
Zip Code : 93609  
Telephone : (559)864-9560  
Email : kamaldeepkaur14@google.com  
Fax :  
Cell Phone :  
Email Subscription : Merced - Fresno  
Add to Mailing List : Yes  
Comment Type : Information Request/Question  
Stakeholder Comments/Issues : When and where can I apply for this job?  
Subscription Request/Response : URL:  
[http://sites.activatedirect.com/chsra.gov/pb\\_commentSubmit.php?fn=Baljit&ln=Singh&em=kamaldeepkaur14%40google.com&city=Caruthers&state=CA&zip=93609&interest=Environmental&sections\[\]=Merced+Fresno](http://sites.activatedirect.com/chsra.gov/pb_commentSubmit.php?fn=Baljit&ln=Singh&em=kamaldeepkaur14%40google.com&city=Caruthers&state=CA&zip=93609&interest=Environmental&sections[]=Merced+Fresno)  
Response:  
"OK"  
EIR/EIS Comment : No  
General Viewpoint on Project : Unknown

392-1 |

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Response to Submission 392 (Baljit Singh, October 2, 2011)

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**392-1**

See MF-Response-GENERAL-19.

Submission 32 (Ben Slaughter, August 13, 2011)

Merced - Fresno - RECORD #32 DETAIL

Status : Action Pending  
Record Date : 8/13/2011  
Response Requested :  
Stakeholder Type : CA Resident  
Submission Date : 8/13/2011  
Submission Method : Website  
First Name : Ben  
Last Name : Slaughter  
Professional Title :  
Business/Organization :  
Address :  
Apt./Suite No. :  
City : Madera  
State : CA  
Zip Code : 93637  
Telephone :  
Email : bens@c-x.com  
Cell Phone :  
Email Subscription : Merced - Fresno  
Add to Mailing List : Yes  
Stakeholder Comments/Issues :  
EIR/EIS Comment : Yes

32-1

Madera County receives little or no benefit from the HSR. No station, no maintenance facility, once again, we are just fly-over country for city-folk. Perhaps the least the HSR Authority could do is to make the tough choice, the right choice, and run the line along the UPRR/SR99 route in accordance with local government preferences. This route would protect one of very few viable economic generators Madera has, agriculture. It would also bring long-needed solutions to many of Madera's haphazardly designed and under-funded rail and roadway interchanges. If the HSRA truly wants to keep with spirit behind the Federal funding that allowing this section to be built, then it should direct those funds into the area that needs it, the UPRR/SR99 corridor. Sure, running the rail through the rural areas along the BNSF is easier and cheaper, taking farmland always seems easiest at the time, but the long-term impacts are rarely understood. But we must ask, is this what's best for the communities of Madera? Local governments, who, by definition know best, say the UPRR/SR99 route is best. We only have one change to build this system. Taking the easy/cheap way out is not the American way, and certainly not how California was built. This is the one decision that would actually enhance a county and economy that receives almost no benefit from the HSR. Make the tough, responsible choice, and choose the UPRR/SR99 route for the benefit of the project and Madera County.

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Response to Submission 32 (Ben Slaughter, August 13, 2011)

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**32-1**

See MF-Response-GENERAL-10 and See MF-Response-GENERAL-18.

Submission 819 (John Smedley, October 13, 2011)

Comment Period Extended to  
October 13, 2011
El periodo a hacer comentarios  
está prolongado hasta del  
13 de octubre de 2011



**CALIFORNIA**  
High-Speed Rail Authority



10-13-11P04:55 RCVD

**Comment Card**  
Tarjeta de Comentarios

<p><b>Merced to Fresno High-Speed Train Section</b> Draft Environmental Impact Report/ Environmental Impact Statement (EIR/EIS) – <b>Public Hearings</b> September 2011</p>	<p><b>Tren de Alta Velocidad Sección Merced a Fresno</b> Anteproyecto del Informe de Impacto Medioambiental/Declaración de Impacto Medioambiental (EIR/EIS) - <b>Audiencias Públicas</b> Septiembre 2011</p>
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Please submit your completed comment card at the end of the meeting, or mail to: Por favor entregue su tarjeta al final de la reunión, o envíela a una de las siguientes direcciones:

**Merced to Fresno HST Environmental Review, 770 L Street, Suite 800, Sacramento, CA 95814**

The comment period on the Draft EIR/EIS begins August 15, 2011 and ends September 28, 2011. Comments received after 5:00 p.m. on <b>September 28, 2011</b> will not be addressed in the Final EIR/EIS.	El periodo a hacer comentarios empieza a 15 de agosto y termina a 28 de septiembre. Comentarios recibidos después de 5:00 p.m. a <b>28 de septiembre</b> no se responderá en el EIR/EIS final.
--	--

Name/ Nombre: <u>John Smedley</u>	Organization/ Organización: _____
(Optional/Opcional) Address/Domicilio: <u>26881 Blanco Ave</u>	Phone Number/ Número de teléfono: <u>559-645-7031</u>
City, State, Zip code/ Ciudad, estado, código postal: <u>Madera, CA 93636</u>	Email address/ Correo electrónico: _____

819-1

How many new water wells (both domestic and Agriculture)  
will need to be drilled? at what cost?, and what impact on  
the underground water supply?

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Response to Submission 819 (John Smedley, October 13, 2011)

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**819-1**

No new water supply wells are expected to be required for the Merced to Fresno HST project. See MF-Response-WATER-4.

Submission 820 (John Smedley, October 13, 2011)

Comment Period Extended to  
 October 13, 2011

El periodo a nacer comentarios  
 está prolongado hasta del  
 13 de octubre de 2011




Comment Card  
 Tarjeta de Comentarios

**Merced to Fresno High-Speed Train Section** **Tren de Alta Velocidad Sección Merced a Fresno**  
 Draft Environmental Impact Report/ Anteproyecto del Informe de Impacto  
 Environmental Impact Statement (EIR/EIS) – Medioambiental/Declaración de Impacto  
**Public Hearings** **Medioambiental (EIR/EIS) - Audiencias Públicas**  
 September 2011 Septiembre 2011

Please submit your completed comment card at the end of the meeting, or mail to: Por favor entregue su tarjeta al final de la reunión, o envíela a una de las siguientes direcciones:

**Merced to Fresno HST Environmental Review, 770 L Street, Suite 800, Sacramento, CA 95814**

The comment period on the Draft EIR/EIS begins August 15, 2011 and ends September 28, 2011. Comments received after 5:00 p.m. on September 28, 2011 will not be addressed in the Final EIR/EIS.	El periodo a hacer comentarios empieza a 15 de agosto y termina a 28 de septiembre. Comentarios recibidos después de 5:00 p.m. a 28 de septiembre no se responderá en el EIR/EIS final.
---	---

Name/ Organización:  
 Nombre: John Smedley Organización: \_\_\_\_\_

(Optional/Opcional) Phone Number/ Número de teléfono:  
 Address/Domicilio: 36881 Blanca Ave 559-645-7031

City, State, Zip code/ Ciudad, estado, código postal: Email address/ Correo electrónico:  
Madera, CA 93636 \_\_\_\_\_

820-1

*The EIR says that cows will be impacted. Is the impact beneficial or detrimental? Has the economic impact been calculated on both the dairy cattle and beef cattle herds been calculated? If so, how much will it cost current and future generations of dairymen and cattle men. if it is detrimental?*

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Response to Submission 820 (John Smedley, October 13, 2011)

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**820-1**

See MF-Response-GENERAL-4 and MF-Response-AGRICULTURE-6. Also see Section 3.12, Impacts on the Agricultural Industry, of the Draft EIR/EIS.

Submission 628 (Cherylyn Smith, October 13, 2011)

Merced - Fresno - RECORD #628 DETAIL

**Status :** Action Pending  
**Record Date :** 10/13/2011  
**Response Requested :**  
**Stakeholder Type :** CA Resident  
**Submission Date :** 10/13/2011  
**Submission Method :** Website  
**First Name :** Cherylyn  
**Last Name :** Smith  
**Professional Title :** Retired Teacher  
**Business/Organization :**  
**Address :**  
**Apt./Suite No. :**  
**City :** Fresno  
**State :** CA  
**Zip Code :** 93704  
**Telephone :** (559) 264-9061  
**Email :** cherylynsmith@aol.com  
**Cell Phone :**  
**Email Subscription :** Fresno - Bakersfield, Merced - Fresno  
**Add to Mailing List :** Yes

628-1  
 628-2  
 628-3  
 628-4  
 628-5

**Stakeholder Comments/Issues :**

After reviewing the Env. Impact Reports (Highlights of), I have several concerns about the route designated on the Draft Report for the City of Fresno. As a resident and landlord in the area with one residence located less than 1 mile from the proposed route, I worry about the following, in order of priority:

1. Alternate Routes appear to be designated for both Chowchilla and Merced (and also south of Fresno, such as Bakersfield) which will help to circumvent a direct intrusion into the city (s) proper. In the case of Fresno, no significant options seem to be available in the draft. My suggestion is that the rail line run at least a mile west of Fresno, so as to impact the city population as little as possible with dust, noise, and accident risks.
2. It is important to note that anywhere in the valley the dust raised by HS Rail is likely to contain a variety of toxic substances, including valley fever, pesticides and herbicides, and other toxins inherent in soil. The particulate matter in our air is already a grave concern for Fresnoans. As a teacher, I am aware of the warnings that frequently come out about outdoor activities, etc. Please move the rail westward in order to mitigate this problem to the optimal degree.
3. Noise pollution is another concern, which could be greatly reduced, if not eliminated by moving the route westward. If the route remains, however, it should not be up to the city to build a sound barrier. State funds should be used entirely. City decisions are highly arbitrary and subject to the influence of politically connected parties.

3. If the rail is not moved westward (or at least one mile outside of the city boundaries, in any direction), then it is critically important that the state build an intrusion wall to prevent an accident with the existing railroad line, such as the one that recently happened in China. That wall should run the entire length of the HSR as long as it is positioned, as it is presently proposed, along the existing rail line (formerly Southern Pacific tracks).

Please note that my request is that you offer an alternate route for the HSR as it runs through Fresno City. Please position it so that no dust or noise will affect city residents and note that a large parking facility will be required to access the station for commuters. As far as the express train is concerned, it is even more crucial that there be an alternative route available in the proposal.

Thank You, Cherylyn Smith

**EIR/EIS Comment :**

Yes

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Response to Submission 628 (Cherylyn Smith, October 13, 2011)

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**628-1**

See MF-Response-General-10.

**628-2**

See MF-Response-AQ-1.

**628-3**

See MF-Response-NOISE-6.

**628-4**

See MF-Response-S&S-4.

**628-5**

See MF-Response-General-10.

Submission 689 (Alfred & Reis Soares, October 13, 2011)

Alfred Soares Dairy  
Alfred & Reis Soares  
21282 Rd. 6  
Chowchilla, Ca 93610  
(559) 665-5879

October 6, 2011

Merced to Fresno HST Environmental Review  
770 L. Street 800  
Sacramento, Ca 95814

Re: **Opposition to California High Speed Rail Project**

We are a dairy family and are opposing Proposition 1A

The impact of the High Speed Train (HST) on our family and business will be devastating. The proposed plan that comes through our property would take out farm land that is currently used to feed our cows and operate our dairy farm. The loss of land would put our family at risk of not being able to borrow money to keep operating. Due to the heavy debt load we currently have, any type of depreciation of our farm could put us out of business.

The DEIR/S fails to describe the whole project. Without a description of all aspects of the project that could impact the environment, the DEIR/S cannot be complete.

689-1 | ECONOMIC IMPACT: Our dairy currently supports 15 families. 15 families would be out of work and or homes. The EIR does not address the mitigation measures or how HSR will compensate those employees.

689-2 | NOISE: Cattle do not respond well to constant noises. Production will be affected and their health if they are not able to get adequate rest. The EIR does not discuss any mitigation measures for the loss of production caused by noise, vibration or stray voltage problems.

689-3 | DAIRY PERMIT: Our dairy permit would be affected because our current permit is closely regulated on a ratio of milk cows per acre of land owned. Any loss of farmland taken by the rail will cause a direct reduction in our herd size and our net income. The EIR fails to address this significant agricultural impact. Furthermore, the EIR fails to address the possibility that my dairy may not be able to meet the stringent San Joaquin valley water quality regulations due to the loss of farmable acreage.

689-4 | AIR QUALITY: We currently operate according to the Air Board rules and have specific dust control measures in place. Dust control will be a problem given the speed of the HST. What measures will the HSR put in place to address this problem?

FARMING: The issue of how we would continue the current crop spraying practices has not been addressed. With the already strict conditions in place when we need to spray our crops, the HST could prevent us from being able to spray due to the wind factor caused by the HST. How will HSR address this problem?

689-5 | WATER: We receive district water and the area proposed for the HST would cause total removal of the current pipeline that brings our district water. The question to the High Speed Rail Authority is; who will be responsible for repairs of the new pipeline when it cracks from the vibration of the HST?

689-6 | HEALTH: There has not been enough if any studies done on the overall health issues that may come from this type of project so close to residences. A Health Risk Assessment needs to be completed.

689-7 | ENVIRONMENT: The issue of the additional fuel used by the local farmers who will have to travel farther distances due to the blockage of roads. For years the Natural Resources Conservation Services NRCS has provided programs in an effort to conserve fuel assisting in healthier air and conserving resources. The HST works against all these efforts. How will the HSR address this?

689-8 | HAZARD & HAZARDOUS MATERIALS: Electromagnetic Fields are dangerous to the animals and those of us living near the HST. The EIR does not address this in the mitigation measures. How will the HSR address this problem?

689-9 | PUBLIC SERVICES: Will the HST increase the need for emergency services, electricity utilities, and increase hazards of power shortages, blackouts especially in drought years? The current public services are hardly able to keep the public's current needs. How will HSR address this problem?

TRANSPORTATION/TRAFFIC: The intent of the Proposition 1A was to use existing transportation corridors, but this is not the case. **This proposition is off its' track!**

For these reasons, it is not possible for the DEIR/S to accurately and adequately describe the project's impacts and mitigation measures.

Alfred & Reis Soares

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## Response to Submission 689 (Alfred & Reis Soares, October 13, 2011)

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### **689-1**

See MF-Response-AGRICULTURE-6 and MF-Response-GENERAL-4. See SO-MM#2 in Section 3.12.7, Socioeconomics, Communities, and Environmental Justice, for information on the relocation plan that will be developed for the HST project and some of the objectives and components of the plan.

### **689-2**

See MF-Response-NOISE-1 and MF-Response-AGRICULTURE-6.

Adequately grounded equipment will not be impacted by the HST.

### **689-3**

See MF-Response-AGRICULTURE-6.

### **689-4**

See MF-Response-AGRICULTURE-5.

### **689-5**

See MF-Response-WATER-1 and MF-Response-NOISE-5[CSVN1]. As discussed in MF-Response-NOISE-5, the potential for vibration damage from HST operations is limited to extremely fragile buildings located within 30 feet of the tracks. These buildings are considered to be more sensitive than utility lines, and therefore no impacts to utility lines are expected.

### **689-6**

A number of the sections in the EIR/EIS provide information on the various elements where construction and operation could result in effects, both positive and negative, on the health of the population. These sections include 3.3 (Air Quality and Global Climate Change), 3.4 (Noise and Vibration), 3.5 (Electromagnetic Fields and Electromagnetic Interference), Section 3.8 (Hydrology and Water Resources), 3.10 (Hazardous Materials and Waste), and 3.11 (Safety and Security). For all of the EIR/EIS sections there are mitigation measures identified to address the impacts. In addition, Section 3.12, Socioeconomics, Communities, and Environmental Justice summarizes the information for all sections in the EIR/EIS to determine if there are any adverse impacts that would result in disproportionately high and adverse impacts on communities of concern.

### **689-6**

Census data indicates that the entire study area is comprised largely of communities of concern so any negative effects on these populations would affect all populations. Overall, there are no negative effects identified that would affect the overall health of the population. The HST would reduce vehicle miles traveled, thereby reducing emissions and improving air quality.

### **689-7**

See MF-Response-TRAFFIC-2 and MF-Response-AQ-4.

### **689-8**

The EIR/EIS provides a complete discussion of electromagnetic fields, including how they are measured and what government and industry standards have been developed to regulate these fields. The EIR/EIS describes the measured existing electromagnetic levels, as well as the potential for electromagnetic interference from operation of the HST.

Operation of the HST would generate 60-Hz electric and magnetic fields on and adjacent to trains, including in passenger station areas. A significant impact on the environment requiring mitigation would occur were the HST System to expose people to a documented EMF health risk or were HST operations to interfere with implanted biomedical devices. The maximum permissible exposure limit established by the Institute of Electrical and Electronics Engineers for the instantaneous exposure of the general public to 60-Hz magnetic fields is 9.04 G (0.9 T). The maximum permissible exposure limit (IEEE Standard C95.6 Table 4) for 60-Hz electric fields for the general public is 5,000 volts per meter (V/m) or 5 kilovolts per meter (kV/m). Based on modeled levels of EMF exposure and measurements on other existing HSTs, the HST was determined to not exceed these safety thresholds.

There will be no significant impact from EMF to livestock and poultry along the right of way. Previous studies (Amstutz and Miller, A Study of Farm Animals Near 765 kV Transmission Lines, The Bovine Practitioner, November, 1980) have shown that even at EMF levels much higher than those from the HST, that there is no effect on herds of beef or dairy cattle or swine. We are not aware of any poultry facilities being located

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Response to Submission 689 (Alfred & Reis Soares, October 13, 2011) - Continued

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**689-8**

along the proposed right of way but even if there were we are not aware of any studies that have shown that exposure to these low levels of EMF will be detrimental to poultry flocks.

For a discussion of electromagnetic field impacts specific to farm animals, refer to MF-Response-AGRICULTURE-6. The potential effect of electromagnetic fields on animals and individuals residing near the HST was determined to be less than significant. Therefore, no mitigation is required. Refer to Section 3.5 Electromagnetic Fields and Electromagnetic Interference for additional details.

**689-9**

See MF-Response-S&S-6 regarding emergency services, MF-Response-PUE-3 regarding electricity needs, and MF-Response-GENERAL-2 subsection Existing Transportation Corridors regarding the use of existing transportation corridors.



Submission 642 (James and Shirley Soper, October 12, 2011)

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10-12-11A11:45 RCVD

*page 1 of 2*

*page 2 of 2*

James & Shirley Soper  
906 South Plainsburg Road  
Le Grand, CA 95333

Phone: 209-382-1285  
Email: jimsoper\_me@yahoo.com

October 10, 2011

California High-Speed Rail Authority Merced to Fresno HST Environmental  
Review 770 L Street, Suite 800 Sacramento, CA 95814

Dear Sir/Madam:

We are James and Shirley Soper, located at 906 South Plainsburg Road,  
Le Grand, CA 95333, Phone: 209-382-1285. Email:  
jimsoper\_me@yahoo.com. Assessment# 053-260-014-000.

We have lived on this property for the past 20 years, where we've build our  
own home for our retirement with a long paved driveway and fully landscaped  
yard. The proposed high-speed train section from Merced to Fresno will have a  
very detrimental impact on us in the following manner:

- Inappropriate deadline restraints for review of EIR Draft, should be 6 months for a project of this size.
- C We will loose access to our home and land due to the planned overpass on Plainsburg Road. When working on our land, we use the front driveway for all tractor work and personal access.
- C Traffic will increase and cause more noise and put stress on our Llamas. Tractors towing large wide equipment now use 3/4 of the road to travel to and from fields. With a two-lane road, how can they get around so vehicles can pass, especially in the fog? Safety to ourselves & property will diminish with the overpass.
- C Our air quality will be affected as Mr. Soper has Asthma and will cause an increase in our medical expenses.
- C We will loose quality of life for our retirement. The impact of noise, vibrations, turbulence from the train and overpass will lower property values and lessen its marketability in the future.

642-2

C Our views will be obstructed. This was why we chose this site to build our retirement home.

Subject and surrounding area is within a FEMA Flood Zone, primarily Zone AO. The overpass will create more water shed during rain events and our property will become a ponding area without added drainage improvements.

Electrical utilities might need to be relocated which would be additional expense of this project, power lines run along Plainsburg Road.

Properties domestic well is near Plainsburg Road, might need to be relocated depending on required setbacks imposed by the county.

642-3

Other issues to consider are the affects on endangered species living in and around Owens Creek, located next to our property, such as Kit Foxes, Owls and Crawdads, as well as water drainage problems. Oil and road grimes will drain into the creek, making it impossible for wildlife to live. In the springtime, Redtail and American Kestrel Hawks have their nests along Owens Creek. In the fall, the hawks leave and other birds nest in the trees. We also have Coyotes, Opossums and Skunk living around the creek, which will also be affected.

Sincerely,

James & Shirley Soper

642-1

642-2

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## Response to Submission 642 (James and Shirley Soper, October 12, 2011)

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### **642-1**

See MF-Response-GENERAL-7.

### **642-2**

Regarding private property access, changes due to property acquisition will be refined during final design and coordinated with affected property owners. Any road improvements required for the project will be designed to meet local standards. Also see MF-Response-TRAFFIC-2 and MF-Response-AGRICULTURE-2.

Although temporary construction traffic would be generated during construction of the proposed Plainsburg Road overpass, there is no station proposed in or near Le Grand or Planada that would increase traffic near your property. Also note that although a final route has not been selected, the Preferred Alternative for the project is the Hybrid Alternative, which would follow the UPRR/SR99 corridor in this area, not the BNSF, and would not cross near your property. See MF-Response-GENERAL-8.

MF-Response-NOISE-1 and MF-Response-NOISE-6 discuss noise impacts to farm animals. Regarding roadway safety (ie: fog) see MF-Response-S&S-2.

See MF-Response-AQ-3 regarding air quality impacts.

Regarding property values, see MF-Response-SOCIAL-2.

See MF-Response-VISUAL-1 regarding blocked views.

See MF-Response-WATER-2 regarding drainage and MF-Response-WATER-3 regarding floodplain impacts. If a private well is impacted, it will be relocated as part of the property acquisition process.

See MF-Response-PUE-5 regarding utility coordination. Utility relocation costs are included in the estimated project costs.

### **642-3**

See MF-Response-BIO-2.

### **642-3**

Owens Creek is addressed in both the Draft EIR/EIS and Biological Resources and Wetlands Technical Report. Owens Creek is referenced on page 3.7-37 as occurring on the BNSF Alternative with the Le Grand Design Option. In the Technical Report, Table 4-2 (Natural Watercourses in the Wetland Study Area) characterizes the habitat elements that comprise Owens Creek, including its willow riparian woodland habitat types. On page 5-3, Owens Creek is discussed in considerable detail within the wetland study area, including its habitat constituents.

It is important to note that all plant community and habitat types that exist at Owens Creek and occur within the construction footprint have been categorized and included with the impact acreages for terrestrial and aquatic habitats, special status species habitat and waters of the United States and wetlands.

Section 3.7.5 of the Draft EIR/EIS addresses the potential for direct and indirect effects to local aquatic and upland resources including runoff. It is important to recognize that the Merced to Fresno Section includes project design features to effectively manage runoff and discharges. These project design features would contribute to the minimization of pollutant discharges to adjacent uplands, wetlands, and the San Joaquin River. For example, the bridge structures would control the stormwater and discharge of the structure with BMPs required to meet 401 requirements.

Submission 529 (Miguel Soto, September 14, 2011)

529-1

20 MR. SOTO: My name is Miguel Soto and this is  
21 obtaining to both parts of the railway. I just have some  
22 questions that I hope to be addressed at the meeting  
23 today.  
24 The first is, right now Amtrak has 14,000  
25 boarders per year. How many does high-speed rail get per  
75

529-1

529-2

1 year and how do you get that estimate?  
2 And for local funding, what are the costs that's  
3 going to be used by Merced County for the Central Valley  
4 for like the train station or any other costs that have  
5 been associated with the high-speed railroad?  
6 And why does the estimate for parking spaces for  
7 the train station at Merced cost as much as LAX?  
8 And what is the estimated cost of infrastructure  
9 for a possible maintenance line for Castle?  
10 And why not use a profitable route first instead  
11 of the Central Valley?  
12 How will the station reroute to the downtown  
13 areas in the high-speed rail line?  
14 And why will the public use high-speed rail  
15 compared to other transportation methods such as planes?  
16 And how can replacing the by sector jobs that we  
17 have currently to public sector jobs be beneficial to the  
18 community?  
19 And which local jobs would be available due to  
20 high-speed rail?  
21 That's all pretty much.

529-3

529-4

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## Response to Submission 529 (Miguel Soto, September 14, 2011)

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### 529-1

See MF-Response-GENERAL-6.

Refer to Chapter 6, Ridership and Revenue, in the California High-Speed Rail Program 2012 Business Plan for information on ridership including the methodology, assumptions, and input data used in development of the ridership numbers.

### 529-2

See MF-Response-GENERAL-18.

Refer to Chapter 5, Project Costs and Operations, in the EIR/EIS for complete information on the capital cost of the HST alternatives and heavy maintenance facilities.

### 529-3

The country's first high-speed rail section requires the resolution of regulatory, safety, and technical issues and operational development before operations can begin. All future rolling stock, signaling and control systems, turnouts, and electric power systems need to be tested as a complete system. The only feasible location to do this is in the stretch of 120 miles or more in the Central Valley. See MF-Response-GENERAL-13 for information on the the Initial Construction Segment.

The Downtown Merced and Fresno station areas would each occupy several blocks, to include the station plazas, drop-offs, multimodal transit centers, and parking structures. The areas would include the station platform and associated building and access structures, as well as lengths of platform track to accommodate local and express service at the stations. Chapter 2, Alternatives, Section 2.4.2.4, Stations, includes additional detail about the stations.

California's population is growing rapidly, and unless new transportation solutions are identified, traffic will only get worse and airport delays will continue to increase. The proposed 220 mph high-speed train system will provide lower passenger costs than travel by air for the same city-to-city markets. It will increase mobility while reducing air pollution, decreasing our dependency on fossil fuels, and protecting the environment by reducing greenhouse gas emissions and promote sustainable development. By moving people quicker and cheaper than today, the system will boost California's productivity.

### 529-3

The system will also enhance the economy. In November 2008, California voters passed Proposition 1A which provides \$9 billion towards the implementation of high-speed rail service in California. Please see the certified Statewide Program EIR/EIS (November 2005) for more information in regard to the rationale for building the proposed high-speed rail system. See also the discussion under Section 1.2.4 Statewide and Regional Need in the Draft EIR/EIS.

### 529-4

See MF-Response-GENERAL-19 and MF-Response-SOCIAL-3.

Submission 472 (Dushan Spadier, October 6, 2011)

Merced - Fresno - RECORD #472 DETAIL

Status : Action Pending  
Record Date : 10/6/2011  
Response Requested :  
Stakeholder Type : Business  
Submission Date : 10/6/2011  
Submission Method : Website  
First Name : Dushan  
Last Name : Spadier  
Professional Title : VP  
Business/Organization : George Dakovich & Son, Inc.  
Address :  
Apt./Suite No. :  
City : Fresno  
State : CA  
Zip Code : 93722  
Telephone : 559-277-8092  
Email : dushan@spadier.com  
Cell Phone :  
Email Subscription : Merced - Fresno  
Add to Mailing List : Yes  
Stakeholder  
Comments/Issues : i am opposed to your plan since i found out how many people and businesses are impacted. Your plan could not be worse even if you let a elementary school kid lay it out! there has to be an alternate route that does not affect so many existing improved properties. please find a different route throught the Ashlan to Herndon right of way!  
EIR/EIS Comment : Yes

472-1

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Response to Submission 472 (Dushan Spadier, October 6, 2011)

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**472-1**

See MF-Response-GENERAL-14, MF-Response-SOCIAL-1, and MF-Response-SOCIAL-2.

Submission 10 (John Sporseen, July 25, 2011)

Merced - Fresno - RECORD #10 DETAIL	
Status :	Action Pending
Record Date :	7/25/2011
Response Requested :	No
Stakeholder Type :	Other
Submission Date :	7/25/2011
Submission Method :	Website
First Name :	John
Last Name :	Sporseen
Professional Title :	
Business/Organization :	
Address :	
Apt./Suite No. :	
City :	
State :	CA
Zip Code :	98637
Telephone :	
Email :	Freshair2@centurytel.net
Cell Phone :	
Email Subscription :	Merced - Fresno
Add to Mailing List :	No
Stakeholder Comments/Issues :	I realize I am an out-of-state observer but I am also a high speed rail advocate. I have not seen a projection as to when "construction" will really start. There has been a lot of talk but little action as far as I can see. I'm 72 years old and have ridden HSR in Germany and France but would love to ride it here in the US while I can
EIR/EIS Comment :	No

10-1

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## Response to Submission 10 (John Sporseen, July 25, 2011)

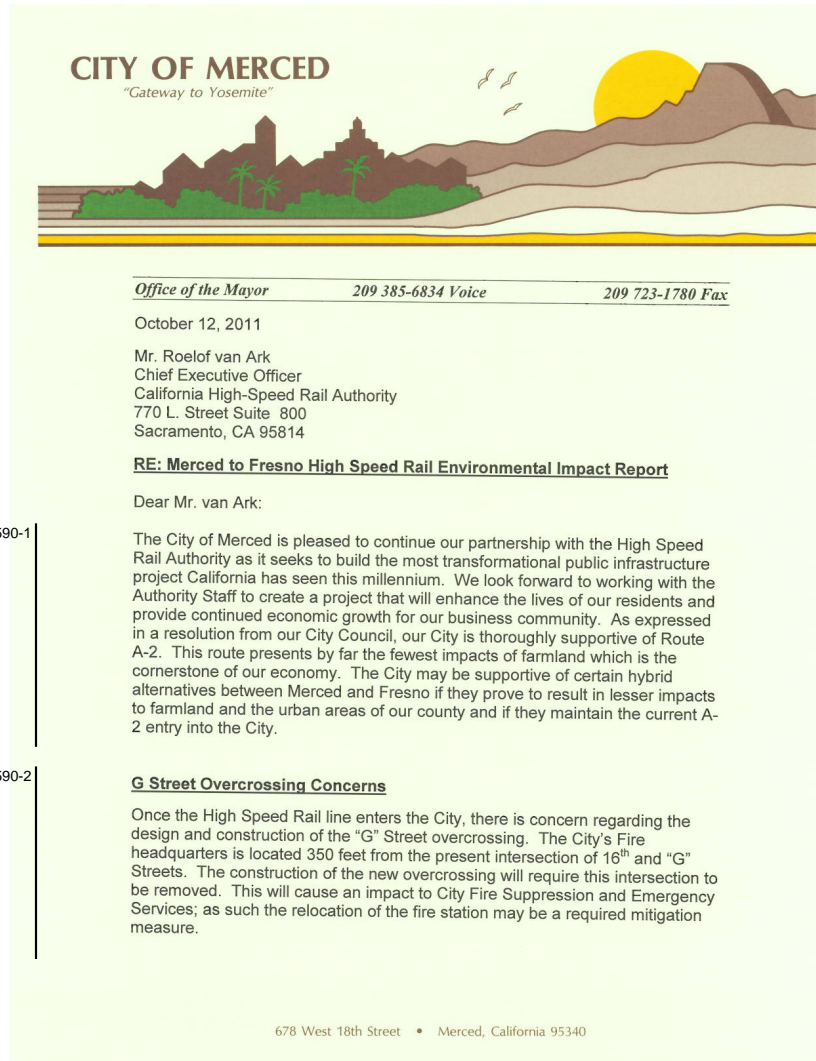
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### **10-1**

Construction of the Initial Operating Section begins with the Initial Construction Section, or ICS—a 130-mile system “spine” through the Central Valley. The ICS would become the first high-speed rail test track in the nation. The federal government has already provided funding for the ICS, and state funding can be used to match it, allowing construction to begin in late 2012 or 2013, with completion in 2017. HSR construction for Phase 1 will begin in 2012 assuming approval of a state appropriations request to use Proposition 1A bond proceeds to match federal funds, laying the foundation for HSR with the ICS in the Central Valley.



Submission 590 (William Spriggs, October 12, 2011)



590-1

590-2

590-2

In addition, the overcrossing structure will cause a major connectivity and visual barrier within the heart of our community. It will obstruct the views of several of Merced's most significant structures including the Merced Theatre and Courthouse. As such, significant attention to the design and aesthetic quality of the overcrossing will be required. Even with the careful design of a structure, the overcrossing will ultimately create a significant barrier to residents living south of Highway 99. Many of the residents living south of Highway 99 have limited access to automobiles to travel to services found throughout the community. Therefore, constructing overcrossings with steep grades would have a disproportionate impact upon the community unless there is proper mitigation. In addition, the steep grade may close the overcrossing during frost and icy weather similar to the current Bradley Overpass.

590-3

**Major Business Impact**

In addition, the construction of numerous overcrossings would effectively eliminate north/south traffic to the 30 City blocks located between Highway 99 and the High Speed Rail line. Such an effect would greatly hinder the economic viability of these parcels which include several of the largest employers in the community, several of the largest tax payers within the community and a large senior residence neighborhood. This may well lead to an inverse condemnation of a significant swath of viable development within our community. Given these results, further construction of overcrossings along Martin Luther King Way, "M" Street, "R" Street and "V" Street will not be a plausible alternative for our community without extremely costly mitigation measures.

This is a concern even with a single overcrossing. There are more than a dozen businesses that have primary access points at the intersection of 16th and G Streets. With a tremendous change in traffic circulation the economic viability of these businesses in particular and other businesses within the area is concerning. The economic affect of the "G" Street overcrossing to these businesses needs to be carefully analyzed and extensive mitigation measures should be implemented.

590-4

**Raising the Rail Line**

The City believes that the Authority should provide further analysis into raising the High Speed Rail line by at least 10' into our community. This would allow for more subtle undercrossings to be constructed through the downtown area and potentially eliminate the overcrossing at "G" Street. Undercrossings have the advantage of having less significant profiles; this would be especially true if the rail lines were raised. The reduced slopes would lessen the impact of crossing the lines for vehicles as well as for pedestrians and bicyclists who represent a large portion of the traveling methods for residents living south of Highway 99. The potential to raise the tracks could possibly begin before the tracks enter the

Submission 590 (William Spriggs, October 12, 2011) - Continued

590-4 | downtown as Caltrans is beginning work to reconstruct the 16<sup>th</sup> Street overcrossing on the eastern side of our downtown. The new overcrossing is 6' higher than the existing structure. This new development was not included in the analysis of the high speed rail line into Merced or the elevation of the Merced station and should be factored into the mitigation plans.

590-5 | **Major Impacts on Traffic**

The City is concerned with the traffic impacts of the high speed rail line through our community. The EIR does not contain a complete traffic study of each of the many roadways that will be affected by the construction of the high speed rail. The High Speed Rail Authority will be working in conjunction with the City to complete a traffic analysis. This process will begin in 2012 and will be completed in early 2013. The City believes that the traffic mitigation measures should be amended once the traffic analysis is completed. Until a detailed analysis is completed, it is impossible for the City to provide a precise review of the various levels of services that will result from this project. A comprehensive and detailed Station Area Plan is impossible until the City knows whether there will be undercrossings or overcrossings throughout the downtown.

The document includes a narrative describing the anticipation of construction materials being transported on existing public roadways. However, there is no detail as to the amount of material that will be transported, the routes or the times of day for transportation. Given the magnitude of this project, the amount of construction material will be significant. The City is highly concerned that the construction traffic on local roadways will result in significant distress leading to rapid deterioration. Mitigation measures will be needed to adequately address these issues.

590-6 | **Impacts on City Facilities and Services**

The regrettable loss of the community's only Youth Center and Senior Center will result in a significant impact to the community that will need to be mitigated with the construction of new facilities within the community. The City is also concerned with the potential increase in demand for emergency services as a result of the numerous additional travelers that will traverse through our City. This impact does not seem to be mitigated within the document.

The development of the station will also greatly increase the demand for various municipal services. On a daily basis the station will induce thousands of travelers to converge on our City. These visitors will have an impact on the community's police and fire forces. As such, the City requests mitigation measures. One such should be a station landing fee whereby travelers will help provide a revenue stream to pay for the municipal services they will require.

590-7 | **Heavy Maintenance Facility Analysis Flawed**

The City also has significant concern regarding the analysis of the Castle Heavy Maintenance Facility. Although High Speed Rail Authority representatives have advised that the location of a Heavy Maintenance Facility (HMF) will be evaluated/determined at a later time, the document provides very premature cost estimates for the HMF alternatives. Merced's Castle HMF has been estimated to cost approximately \$400 million more than the other potential sites. This is largely due to the inclusion of the alignment and track costs between the Downtown Merced station and the Castle HMF. The vast majority of this cost will be used for the Merced to Sacramento segment of the High Speed Rail. As such, it should not be equated as a cost for the Castle HMF, because it is a cost that will be incurred by the Authority whether or not Castle is ultimately chosen for the HMF.

**Additional Spur Alignment Possibilities**

Additionally, the alignment of the HMF spur is highly questionable. The City would appreciate the opportunity to work with authority staff to identify potential alternate locations along the Highway 59 corridor or along an existing MID canal to the east of the proposed alignment. Both of these proposed alignments would result in a greatly reduced impact on the residents of the Franklin/Beachwood area. In summation, the City would urge the authority to delay the inclusion of potential costs in the HMF sites until further analysis and value added engineering could be completed and to defer the selection of a preferred location until a more thorough analysis of all Heavy Maintenance Facilities can be thoroughly researched.

We look forward to working with the California High Speed Rail Authority on the Station Area Planning Study to find reasonable mitigation measures for the downtown and station areas.

Sincerely,



William Spriggs

Mayor, City of Merced

Submission 590 (William Spriggs, October 12, 2011) - Continued

City of Merced  
 Merced to Fresno EIR  
 Technical Review

590-8

Section 2.0—Alternatives:

- P. 2-9, Figure 2-9—Aerial construction straddle bents located within the Merced City Limits/Urbanized Areas should be avoided or designed to be aesthetically pleasing with limited disruption to the visual quality of the roadway and overall community.
- P. 2-14, Sec. 2.2.7.1—All traction power substations should be located outside of the urbanized station area.

590-9

- P. 2-29, Sec. 2.4.1.1—The City of Merced requests a correction to roadway access as listed in the Draft EIR/EIS documents to the new University of California, Merced campus. Currently, the Draft EIR/EIS lists Santa Fe Avenue as the route to the university campus. In fact, the City's Vision 2030 General Plan and Circulation Plan show the Campus Parkway project serving as a direct link to the University and proposed University Community and existing California State Highway 99.

- P. 2-54—Additional major access points to the potential HST Downtown station include West & East 16<sup>th</sup> Street, California State Highway 140/Yosemite Parkway. These are not listed as access points within the report.

590-10

- P. 2-82—The City of Merced, in conjunction with the University of California and the State of California High Speed Rail Authority, could work to create a partnership where U.C. Merced Engineering graduates would provide a tremendous workforce and technical resource for a HMF site at the Castle Commerce Center.
- P. 2-97/98—Construction Activities—In addition to serving as the Heavy Maintenance Facility, the Castle Commerce Center could be offered by Merced County for pre-construction staging activities including pre-cast concrete and temporary batch plants with appropriate mitigation measures.

590-11

Section 3.2—Transportation:

- P. 3.2-112, Table 3.2-50—Existing Plus Project Mitigation Measures for Merced Station—Intersection #44 (Main St/H St): The Mitigation Measure (TR MM #9) calls for converting the existing 2-way stop controlled

590-11

intersection into an all way stop controlled intersection; given the changing traffic patterns, the City believes it should be a signalized intersection. A majority of 4-way stop intersections in the HSR impact vicinity are all-way stop signalized intersections. Therefore, the City is requesting an all-way stop signalized intersection be placed at the aforementioned location.

- P. 3.2-112, Table 3.2-50—Existing Plus Project Mitigation Measures for Merced Station—Roadways—M St between 13<sup>th</sup> and 16<sup>th</sup> and V St, west of 13<sup>th</sup> St (Option A only): Mitigation Measure (TR MM#11) calls for adding one travel lane in each direction for each of these roadway segments. There is no indication that there is existing right of way (ROW) available for such a change—if not, there would need to be ROW acquisition and there is no discussion of the impacts on adjacent properties for such ROW acquisition. The measure may not be feasible unless the State provides a blanket approval for HSR impacted localities to be automatically granted encroachment permits for new lanes over existing railroad corridors.
- P. 3.2-114, Table 3.2-51—Future (2035) Plus Project Mitigation Measures for Merced Station—Intersection #33 (14<sup>th</sup> St/O St-Option A only): The Mitigation Measure (TR MM #9) calls for converting the existing 2-way stop controlled intersection into an all-way stop controlled intersection; given the changing traffic patterns, the City believes it should be a signalized intersection. A majority of 4-way stop intersections in the HSR impact vicinity are all-way stop signalized intersections. Therefore, the City is requesting an all-way stop signalized intersection be placed at the aforementioned location.
- P. 3.2-114 and 3.2-115, Table 3.2-51—Future (2035) Plus Project Mitigation Measures for Merced Station—Roadways—a) Main St between Yosemite Pkwy/Hwy 140 & G St; b) 16<sup>th</sup> St between R St & Martin Luther King Jr. Way; c) V St, west of 13<sup>th</sup> St to 16<sup>th</sup> St (Option A only); d) M St between 13<sup>th</sup> & 16<sup>th</sup> St; e) Martin Luther King Jr. Way between Childs Ave & 13<sup>th</sup> St; and f) G St between 13<sup>th</sup> & 16<sup>th</sup> Sts: Mitigation Measure (TR MM#11) calls for adding one travel lane in each direction for each of these 6 roadway segments. There is no indication that there is existing ROW available for such a change—if not, there would need to be ROW acquisition and there is no discussion of the impacts on adjacent properties for such ROW acquisition. The measure may not be feasible unless the State provides a blanket approval for HSR localities to be automatically granted encroachment permits for new lanes over existing railroad corridors. The City strongly objects to any conclusion of "less than significant impact" regarding the proposed disconnection of 16th Street from "G" Street and "MLK," and most likely "M," "R" and "V" that may be included in Merced to Sacramento EIR/EIS. This action shifts the arterial street classification and associated traffic from 16th (a 4 lane high-speed corridor) to Main Street (a 2 lane road low-speed road), which will

Submission 590 (William Spriggs, October 12, 2011) - Continued

590-11

result in significant impacts to circulation, air quality, noise and land use patterns.

- P. 3.2-120, Table 3.2-54—Existing Plus Project Mitigation Measures for Castle Commerce Center HMF—Intersection #67 (Main St/H St): The Mitigation Measure (TR MM #9) calls for converting the existing 2-way stop controlled intersection into an all-way stop controlled intersection; given the changing traffic patterns, the City believes it should be a signalized intersection. A majority of 4-way stop intersections in the HSR impact vicinity are all-way stop signalized intersections. Therefore, the City is requesting an all-way stop signalized intersection be placed at the aforementioned location.
- P. 3.2-122, Table 3.2-55—Future (2035) Plus Project Mitigation Measures for Castle Commerce Center HMF—Intersection #56 (14<sup>th</sup>/O St—Option A only): The Mitigation Measure (TR MM #9) calls for converting the existing 2-way stop controlled intersection into an all-way stop controlled intersection; given the changing traffic patterns, the City believes it should be a signalized intersection. A majority of 4-way stop intersections in the HSR impact vicinity are all-way stop signalized intersections. Therefore, the City is requesting an all-way stop signalized intersection be placed at the aforementioned location.
- P. 3.2-126, Section 3.2.7.4—Mitigation Measures for Pedestrian and Bicycle Facilities: The project proposes to provide a pedestrian/bicycle overcrossing of the HSR tracks near D Street due to the restrictions caused by closure of the street, but there is no discussion of how this would be accomplished, how the ROW would be obtained and how much ROW would be required in order to get the length and slopes to go over the tracks. In addition, the City is concerned with the size/height and scale of such an overcrossing and its other potential impacts including impairing visual quality.
- P. 3.2-129, Section 3.2.10—Potential Future Option for Improved Transportation Connectivity in Merced: The City desires to coordinate the potential design for this future option closely with the Authority. The City believes there are several potential benefits from its construction, though we believe that its ultimate path must be sensitive to the existing business and residential community.

590-12

Section 3.4—Noise and Vibration:

The City of Merced, upon careful review of the Draft EIR/EIS, is mindful that other cities along the HST route are receiving noise mitigation measures, i.e. sound walls, throughout those respective municipalities and outlying urban areas. The City of Merced follows the same State Highway

590-12

99 corridor and the same rail lines as the cities who are receiving noise and vibration mitigation measures. The City of Merced requests to be included in best practices appropriate noise mitigation measures, as discussed in the Draft EIR/EIS documents throughout the Valley. In addition, the following comments are presented:

- Downtown Merced has many older unreinforced masonry buildings located within the vicinity of the HST project construction area including along the track line and near the downtown station. The Draft EIR/EIS does not discuss construction vibration, nor mitigation measures, for buildings located along 16<sup>th</sup> Street.
- P. 3.4-21 through 24, Table 3.4-10—Existing Noise Testing Locations: There were only three test locations identified within the City of Merced limits. The City requests an adequate review of additional noise testing and the potential impacts of noise on the community.
- P. 3.4-39—The City disagrees with the conclusion that there would be no severe noise impacts because of the high level of existing noise in the community. The City is of the opinion that this is a qualitative judgment; the inclusion of another noise producer will make it more difficult for various property developments to occur in Downtown including residential and mixed use projects. Appropriate mitigation measures are requested in the EIR/EIS.
- P. 3.4-8—Several of the test sites that show up in the category 2 including 720 W 15<sup>th</sup> Street and 340 South Parsons are residential facilities, furthermore, 163 E 13 Street is adjacent to the last test point and after reviewing the noise sensitive chart on P. 3.4-7, the sound levels fall into a Category 2 and are identified as "Severe Impact," which is not reflected in the Draft EIR/EIS report.

590-13

Section 3.6—Public Utilities and Energy:

- P. 3.6-10, Table 3.6-3 and Correction Note to P.12— City of Merced provides water and sewer services to some County non-incorporated areas adjacent to the City. City utility services are also provided to U.C. Merced.
- P. 3.6-10, Table 3.6-3—Draft EIR/EIS should clearly state whether the refuse table is for collection or disposal. There are multiple refuse collectors within Merced and Fresno Counties, and landfill sites within both counties are government owned.
- P. 3.6-10, Table 3.6-3—The City of Merced requests a separate section for both potable and irrigation water considerations.

Submission 590 (William Spriggs, October 12, 2011) - Continued

590-13

- P. 3.6-17, Correction to Table 3.6-6—*Landfill Facility Summary*—The table indicates approximately 93% remaining capacity at the refuse site, while the narrative explains that there is approximately 72% remaining capacity.
- P. 3.6, Table 3.6-5—The City of Merced has expanded its Waste Water Treatment Plant Capacity from the capacity listed in the Draft EIR/EIS. The current capacity is 12 MGD.

590-14

Section 3.7—Biological Resources and Wetlands:

- Mitigation Measure No. 5 (MM#5) references the creation of a Biological Resources Management Plan (BRMP) that will make provisions for monitoring assignments, scheduling and responsibility. The Draft EIR/EIS defines entities other than the City of Merced as responsible for the biological resources mitigation measures; Such defining of roles should be replicated in the BRMP.

590-15

Section 3.8 – Hydrology and Water Resources:

- P. 3.8-11-Section 3.8.4.2 and Table 3.8-2— Merced Irrigation District (MID) diverts Merced River water through their irrigation canals and pipeline systems through the High Speed Rail Project Area. Many of the MID canals also provide storm water conveyance. The Draft EIR/EIS consultant should contact MID for irrigation and storm water service periods.
- P. 3.8-19-Section 3.8.4.3—UPRR/SR 99 Alternative—Merced Irrigation District conveys Merced River water for irrigation through the project area.
- P. 3.8-33-Section 3.8.5.3—Permanent Impacts on Surface Water Quality – The HST station, parking lots and parking structures would be required to have SWPPP both during and post construction. Best Management Practices would be required during construction to prevent stormwater pollution from entering into existing storm drain systems.
- P. 3.8-37-Section 3.8.6—Project Design Features for Stormwater Management and Treatment— Due to the perennial stream flow and ponding environment, mosquito abatement and vector issues, permanent wet basins and swales are discouraged. Dry weather basins and vegetated swales are encouraged.

Section 3.10 – Hazardous Materials and Waste:

590-16

- P. 3.10-4 –Table, City of Merced – The Draft EIR/EIS identifies the “*City of Merced Hazardous Materials Area Plan*” as the response guidance document for the City. The City of Merced is not in possession of this plan and there are not any current employees who are aware of the existence of such a document.
- P. 3.10-5 through 16—*Hazardous Materials/Wastes Technical Report* (separate document source for EIR Section 3.10), Table 5 – 6, page 5 – 16.

Comment: The table lists “Former Standard Oil/Tune-up Masters” at 608 W 16<sup>th</sup> Street, Merced, as a Historical PEC and “*case closed 1996*”. Merced County Division of Environmental Health re-opened the site as a gasoline impacted underground storage tank case in November 2008 (CA Geotracker #T1000000587.) The responsible parties (Chevron & UPRR) have conducted soil borings late spring of 2011 and we are awaiting a report of findings. The site is adjacent (northwest) to the intersection of UPRR line and M Street. This site should be added to the “*Current PECs*” tally and maps in Section 3.10 in the EIR. With mitigation measures it should not be an issue but this corrects the listed status of the site.

Correction: The table lists Costco address as “14445” R Street, corrected address should be “1445” R Street.

590-17

Section 3.11 – Safety and Security:

- Page 5 – Table 3.11-2 – Should add the *Merced Regional Airport Emergency Plan*
- Page 7 – Table 3.11-3 – Under the Service Areas heading the City of Merced FD covers the City, not the unincorporated areas of the County. Under the Equipment heading add five frontline fire engines and four reserve engines.
- The construction of the G Street overcrossing will have a significant impact on the central Fire Station. The City will need to coordinate the design of the structure in order to avoid a negative impact on response time. If an increase in response time is unavoidable, a new station location and facility will be required.

590-18

Section 3.13—Station Planning, Land Use, & Development:

- P. 3.13-25 through 26—Heavy Maintenance Facility Alternatives—This section indicates that impacts on land use surrounding the Castle Commerce Center HMF site would be less than the other sites because

Submission 590 (William Spriggs, October 12, 2011) - Continued

590-18

the land uses are predominantly commercial and industrial. The Draft EIR/EIS indicates that the impacts for this alternative are "less than significant" under CEQA. The City believes these impacts to be significant and further analysis should be performed relating to the impacts of the Merced-Castle connection.

590-19

Section 3.16—Aesthetics and Visual Resources:

- The City of Merced is concerned over the wide-scale "under-estimation" of visual impacts, especially in our urbanized areas. In several places, the Draft EIR/EIS implies that since the areas of Merced are not considered to be very attractive to begin with, that adding the HST and its contributing visual impacts will not result in a loss of visual quality and, therefore, the Draft EIR/EIS lists the impacts as "less than significant" under CEQA. The City disagrees with the findings of "less than significant" impact for areas within the City of Merced. (Examples of this appear on P. 3.16-33, -35, -52, -53, -54, and -55.) There are no stated mitigation measures as a result due to a perceived lack of visual quality in the community for the Martin Luther King Jr. Way, N Street and 16<sup>th</sup> Street corridors. The City of Merced would require aesthetic and visual resources mitigation measures as part of the HST within the community.

590-20

Section 3.17—Cultural and Paleontological Resources:

- P. 3.17-42, Figure 3.17-6 and 3.17-43, Figure 3.17-7—Correction to figure with text label "Castle Commerce Center Site" in the middle. This is an error and the label should refer to "Downtown Merced Station" instead.
- P. 3.17-28—The City of Merced, in concurrence with Merced County, believe the Castle Commerce Center HMF analysis includes numerous questionable historic sites. This leads to an impression of a far greater impact on cultural and paleontological resources. Some of the questionable sites include a trash dump, sewage plant and the running track of decommissioned air base.
- P. 3.17-37-44—The loss of historically registered structures with expansion to the Castle Commerce Center HMF or surrounding Downtown HST station are not of considerable historic value or current high structure quality. The City of Merced recognizes the worth of notable buildings including the Old CHP KAMB and Railroad Building and will subsequently not be affected by a southern alignment on UPRR as called for in the Draft EIR/EIS.
- P. 3.17-45—The City of Merced urges the CAHSR to work with the local cemetery district if any mitigation is required due to the footprint on HST

590-20

line possibly encroaching on De Long Memorial Park. Although, the built physical line rail line does not appear to disturb the private property.

590-21

Section 4-4(f) Resources:

- P. 4-26, Sec. 4.5.1—The City of Merced does not believe there to be an impact to Bob Hart Square during Phase I station site construction due to wind direction (typically W-NW) and distance from station site at 1,100 LF. Although, the City of Merced urges the CAHSR to apply all appropriate mitigation measures if required in the Draft EIR/EIS.

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## Response to Submission 590 (William Spriggs, October 12, 2011)

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### **590-1**

See MF-Response-GENERAL-10. Please see Final EIR/EIS Chapter 7.0 for a discussion of the Preferred Alternative.

### **590-2**

The Authority will continue to coordinate with the city and the fire department as necessary to resolve the city's concerns regarding the G Street overcrossing. The Authority looks forward to discussing these issues with the city, including the potential to modify the fire department exit as well as roadway and intersection configurations to streamline fire response routes and alleviate the impact of losing the 16th Street and G Street intersection. Resolution of these items will be documented in an MOU between the Authority and the city, which is currently being negotiated.

Section 3.16 (Aesthetics and Visual Quality) discusses the visual impacts associated with the Merced station and the G Street overcrossing in downtown Merced. The Authority would continue to collaborate with the city on a design that is context sensitive and aesthetic treatments of the G Street overcrossing to alleviate their concerns. The overcrossing would be ADA compliant, would not have excessively steep grades, and would not create a significant barrier for residents living south of Highway 99.

### **590-3**

See MF-Responses-SOCIAL-3 and MF-Response-TRAFFIC-2.

The project proposes an overpass only at G Street. Traffic analysis associated with this roadway modification is presented in Section 3.2.5.3 of the EIR/EIS. Significant impacts have been identified, and mitigations required to reduce these impacts are also presented in the EIR/EIS.

### **590-4**

Raising the HST profile to accommodate underpasses would also necessitate raising the UPRR track. The UPRR track would have to be raised approximately 18 feet to accommodate an underpass that would intersect with 16th Street. Raising the UPRR track to allow an underpass at G Street would conflict with the existing SR 99 bridge over the UPRR track. Raising the HST tracks would also result in a larger footprint for the HST station due to the grade differential with surrounding streets 15th Street would

### **590-4**

also have to be raised along the HST station to allow vehicular and emergency access into the station.

### **590-5**

See MF-Response-TRAFFIC-1 and MF-Response-GENERAL-1.

The traffic analysis in the EIR/EIS used the best available data at the time of its preparation, consistent with the 15% level of project design. The analysis generally takes a conservative approach by identifying impacts on the basis of continuous construction and full station demand. As construction in Merced is not imminent, there is time for the Authority and the City of Merced to discuss refinements to the project design and traffic mitigations (including the use of viaducts, overcrossings, and undercrossings). If discussions result in modifications, additional environmental analysis may be required. No specific revisions are reasonably foreseeable now, however, so no associated analysis is required.

The amount and type of construction material to be used on the project will vary, dependent upon the final design of the project. Information about the amount of material to be transported, the transport routes, and specific times of day is not known and cannot be known at this time. Nonetheless, the EIR/EIS provides measures to reduce the potential impacts of construction traffic. Section 3.2.6 describes the project design features that will help reduce its impacts. One of these design features is a construction transportation plan that will ensure that standard traffic control measures are employed. This feature has been expanded to describe the key elements of the plan. In addition, mitigation measure TR-MM#1: Access Maintenance for Property Owners describes the elements of the access maintenance plan. See MF-Response-TRAFFIC-1.

### **590-6**

See MF-Response-SOCIAL-1 and MF-Response-S&S-6. The impacts to the McCombs Youth Center and the Merced Senior Center both result from the construction of the guideway to the Castle Commerce Center HMF. Section 3.12.5, Socioeconomics, Communities, and Environmental Justice provides additional information and SO-MM#4, Implement measures to reduce impacts associated with the relocation of community facilities, in Section 3.12.7 provides information on what will be done if these facilities

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## Response to Submission 590 (William Spriggs, October 12, 2011) - Continued

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### 590-6

are impacted. Also see MF-Response-GENERAL-15.

### 590-7

Please see MF-Response-GENERAL-20.

### 590-8

See MF-Response-VISUAL-3.

### 590-9

The following text was added to Section 2.4.1.1, Planned Growth, under the No Action Alternative in the EIR/EIS: "The Campus Parkway project will provide a direct link to the UC Merced from SR 99 when the parkway is completed." Text was added to Section 2.4.2.4, HST Stations, under the UPRR/SR 99 Alternative in the EIR/EIS stating that West 16th Street and East 16th Street are additional accesses from SR 99 and that "SH 140 provides an additional access route from areas east and west of Merced."

### 590-10

See MF-Response-GENERAL-15

### 590-11

Response to comment on page 3 of the letter (Major impacts on Traffic): The EIS/EIR currently identifies the truck routes within the City that would be potentially used by the construction traffic. The report also presents the daily peak-hour trips generated by the construction traffic and its impacts on the specific intersection locations. The Construction Transportation Plan, as described in Section 3.2.6 Project Design Features in the EIR/EIS include project elements that would be used during construction to minimize construction effects on circulation. Detailed information on construction material hauling will be addressed in the Construction Transportation Plan as well.

The tables referenced in the responses below reflect the numbering of the tables in the FEIR/EIS for the tables referenced in the comment.

Bullet #1: Table 3.2-58 - Intersection#44: Main St/H St – Under the existing conditions, the addition of project traffic at the intersection of Main St/H St (#44) changes LOS from

### 590-11

B to E, resulting in project impact. However, this location does not meet the traffic signal warrant. Therefore, signalization was not proposed as mitigation at this location.

Bullet #2: Table 3.2-58 - Roadways (existing conditions) - This mitigation measure was identified to be physically feasible and reduces project impact to less than significant level. The Authority will work with the City of Merced to revise these mitigation measures so they are acceptable to the City and equal to or more effective than the measures provided in the DEIR/EIS.

Bullet #3: Table 3.2-59 - Intersection #33: 14th St/O St - Under the future conditions, the addition of project traffic at the intersection of 14th St/O St(#33) changes LOS from B to E, resulting in project impact. However, this location does not meet the traffic signal warrant. Therefore, signalization was not proposed as mitigation at this location.

Bullet #4 – part 1: Table 3.2-59 - Roadways (future conditions) - This mitigation measure was identified to be physically feasible and reduces project impact to less than significant level. The Authority will work with the City of Merced to revise these mitigation measures so they are acceptable to the City and equal to or more effective than the measures provided in the DEIR/EIS.

Bullet #4 – part 2: The M-F project proposes an overpass at G Street only. Traffic analysis associated with this roadway modification is presented in the EIR/EIS. Significant impacts have been identified and mitigations required to reduce these impacts are also presented in the EIR/EIS.

Bullet #5: Table 3.2-62 - Intersection #67: Main St/H St - Under the existing conditions, the addition of project traffic at the intersection of Main St/H St (#67) changes LOS from B to E, resulting in project impact. However, this location does not meet the traffic signal warrant. Therefore, signalization was not proposed as mitigation at this location.

Bullet #6: Table 3.2-63 - Intersection #56: 14th St/ O St - Under the future conditions, the addition of project traffic at the intersection of 14th St/O St (#56) changes LOS from B to E, resulting in project impact. However, this location does not meet the traffic signal warrant. Therefore, signalization was not proposed as mitigation at this location.



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## Response to Submission 590 (William Spriggs, October 12, 2011) - Continued

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### 590-11

Bullet #7: In coordination with the City of Merced, pedestrian and bicycle crossing facilities over UPRR and HSR will be provided. The facility will be ADA compliant. Location, crossing type, aesthetics, and other design features will be coordinated with the City of Merced at 30% design level.

Bullet #8: Potential Future Option for Improved Transportation Connectivity in Merced - The Authority will continue to work with the City of Merced throughout the duration of the project.

### 590-12

See MF-Response-NOISE-6, MF-Response-NOISE-5, and MF-Response-NOISE-3.

### 590-13

The requested edits to the EIR/EIS text have been made, as appropriate. Irrigation service providers are discussed in Section 3.8, Hydrology and Water Resources.

### 590-14

See MF-Response-BIO-3.

Bio\_MM#5 has been refined to provide clearer performance standards for the Biological Resources Management Plan (BRMP). The delineation of the roles and responsibilities of specific agencies within the BRMP will take place in conjunction with Bio-MM#58, Prepare and Implement a Habitat Mitigation and Monitoring Plan. Roles and responsibilities will overlap between the two plans; as such, specified roles and responsibilities prior to ground disturbing activities will streamline biological requirements through the project timeline as identified in Section 3.7.6.

### 590-15

See MF-Response-WATER-1 and MF-Response-WATER-5.

### 590-16

According to the City of Merced Emergency Operations Plan Guidance Document (page 25), the City's *Hazardous Materials Area Plan* is used as the response guidelines for hazardous materials incidents in the City. The City's Hazardous Materials Area Plan is

### 590-16

also referred to as the "Merced City Fire Department Official Action Guide" (effective February 1, 1988), and was obtained from the City of Merced Records Clerk on March 17, 2011. The Commenter's notes regarding the current status and correct address of sites of potential environmental concern have been noted and verified. Requisite changes to the Final EIR/EIS have been made including to Table 3.10-1.

### 590-17

The Merced Regional Airport Emergency Plan was added to Table 3.11-2 as requested. Table 3.11-3 in the EIR/EIS was revised to reflect the requested changes to service area and equipment. Per ongoing discussions between the Authority and the City of Merced, the Merced Fire Department is estimating the impacts of the G Street overcrossing on its response time. These discussions were not finalized at the time of the publication of the EIR/EIS. If the response time increases beyond maximum desired response time, the Authority and the City of Merced will discuss mitigation measures. The EIR/EIS does not identify specific mitigation measures because an impact has not been identified at this time.

### 590-18

See MF-Response-GENERAL-20 and MF-Response-GENERAL-15. Section 3.13.5, Station Planning, Land Use, and Development, of the EIR/EIS is addressing the indirect effects on land use related to induced growth. Because there are commercial and industrial related uses adjacent to the Castle Commerce site the potential for induced growth is much lower than the other HMF sites where the land uses are agricultural. The HMF site location is dependent on the Fresno to Bakersfield EIR/EIS and the San Jose to Merced EIR/EIS.

### 590-19

See MF-Response-VISUAL-2 and MF-Response-VISUAL-3.

The estimation of impacts is explained in Section 3.16.3 of the FEIR/EIS. In brief, the visual impact assessment was conducted on the following basis. Key viewpoints are selected to represent the range of visual character, quality, and resources within a landscape unit; therefore, some locations will be of lower visual quality than others. Visual resources were identified in policy documents, cultural resource reports, or during

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## Response to Submission 590 (William Spriggs, October 12, 2011) - Continued

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### **590-19**

observations of scenic value and apparent popularity during field work by the visual specialist. The determination of impact is based on the level of change in visual quality from the HST Project and the sensitivity of viewers to that change. Generally, a view with high visual quality is more sensitive to negative change than a view with lower visual quality. Regardless, either could be found to have a significant impact from the HST.

Existing visual quality was found to be moderate at several key viewpoints in Merced, and would increase near the HST station area. The Authority's Urban Design Guidelines for the California High Speed Train Project (Authority 2011) briefly discusses the principles of context-sensitive solutions to guide the design of stations. This approach is equally applicable to elevated guideways and will be employed to mitigate visual impacts through context-sensitive design. Aesthetic Guidelines for Non-Station Structures (TM 200-06; Authority 2012) will also guide design of the HST components. During final design of elevated guideways and the Merced station, the Authority will coordinate with the local jurisdiction and community on the design of these facilities so that they are designed appropriately to fit with the visual context of the areas near them, regardless of the intensity of impacts determined by the visual analysis.

### **590-20**

See MF-Response-CULTURAL-1, MF-Response-CULTURAL-2, MF-Response-CULTURAL-3 and MF-Response-CULTURAL-7. The resources listed in this comment were evaluated as discussed in MF-Response-CULTURAL-2 and MF-Response-CULTURAL-3.

### **590-21**

Evaluation, the Project does not determine that a Section 4(f) "use" would occur at Bob Hart Square. FRA and the Authority shall ensure the appropriate mitigation measures identified in the Final EIR/EIS are implemented.

Submission 1110 (Brian Stepanek, October 9, 2011)

**Draft 2012 Business Plan - RECORD #1110 DETAIL**

**Status :** Unread  
**Record Date :** 10/9/2011  
**Response Requested :** No  
**Stakeholder Type :** CA Resident  
**Submission Date :** 10/9/2011  
**Submission Method :** Website  
**First Name :** Brian  
**Last Name :** Stepanek  
**Professional Title :**  
**Business/Organization :**  
**Address :**  
**Apt./Suite No. :**  
**City :**  
**State :** CA  
**Zip Code :** 93711  
**Telephone :**  
**Email :** flyfresno@yahoo.com  
**Cell Phone :**  
**Add to Mailing List :** No  
**Stakeholder Comments/Issues :** Please keep the Fresno Chaffee Zoo and the strict accreditation tests that they must pass periodically in mind when you plan the routing and other details of the section of high speed rail line that will pass through Fresno.

1110-1

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## Response to Submission 1110 (Brian Stepanek, October 9, 2011)

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### **1110-1**

See MF-RESPONSE-NOISE-1 regarding noise impacts to animals. As noted in DEIR/S Section 3.15.5.3, the proposed projects described in the Fresno Chaffee Zoo Facility Master Plans in June 2011 (City of Fresno 2011) would not conflict with the adjacent HST project, except for the new park boulevard entrance and exit at Golden State Boulevard. The Authority is working with the City of Fresno to resolve this planning conflict. The project is not anticipated to impact current zoo facilities or its continued operation.

Submission 699 (Debbie Stickles, October 13, 2011)

Merced - Fresno - RECORD #699 DETAIL

Status : Action Pending  
Record Date : 10/14/2011  
Response Requested :  
Stakeholder Type : CA Resident  
Submission Date : 10/13/2011  
Submission Method : Project Email  
First Name : Debbie  
Last Name : Stickles  
Professional Title :  
Business/Organization :  
Address :  
Apt./Suite No. :  
City :  
State :  
Zip Code : 00000  
Telephone :  
Email : dstickles@lgeom.legrand.k12.ca.us  
Cell Phone :  
Email Subscription : Merced - Fresno  
Add to Mailing List :

699-1

Stakeholder  
Comments/Issues :

To Whom It May Concern:

I don't think you realize or just don't care about how much you are going to destroy agricultural land and families livelihoods not to mention a whole town. I am from Le Grand California, a small farming/ranching community between Merced and Fresno. The proposed alignments fail to account for the concerns of local residents, while affecting large amounts of farmland, families homes and their way of life and income. We are 5th generation on our ranch here in Le Grand. Your proposals will go right through our property. DO NOT TAKE AWAY OUR LAND FROM FUTURE GENERATIONS.

If the project intersects farmland, it is going to be disruptive and result in severed parcels and operations, severed irrigation systems and wells, among other impacts.

I do not feel California needs High Speed Rail, aren't we broke? We can't afford it and I don't think there would be enough citizens using it to justify the money spent that WE DO NOT HAVE!

Both alternatives fail to account for the concerns of local residents, while affecting large amounts of farmland outside of any existing major transportation corridor.

An alignment along the Union Pacific Railroad and Highway 99 is most consistent with the intent of voters (I had a NO vote for High Speed Rail) and the concerns of the local agricultural community.

SAVE OUR LAND AND WAY OF LIFE

Sincerely,

Deborah L. Stickles

Yes

EIR/EIS Comment :

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Response to Submission 699 (Debbie Stickle, October 13, 2011)

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**699-1**

See MF-Response-GENERAL-4, MF-Response-AGRICULTURE-4, MF-Response-AGRICULTURE-5 and MF-Response-GENERAL-14.

Submission 182 (Tom Stillman, September 14, 2011)

**HIGH SPEED RAIL COMMENT SHEET**

Please complete and mail this sheet to the following address:  
 Attention: Supervisor John Pedrozo  
 County of Merced  
 2222 M Street  
 Merced, CA 95340

Board of Supervisors  
 2222 M Street  
 Merced, CA 95340

1  
 30

NAME Tom Stillman  
First Last

ADDRESS 11141 Childs Ave Le Grand CA 95333  
Street Address Town/City Zip Code

MAILING ADDRESS Same  
 (IF DIFFERENT FROM ABOVE) Address Town/City Zip Code

TELEPHONE NUMBER (209) 761-9886  
(209)

EMAIL ADDRESS \_\_\_\_\_

  
 DISTRICT 1 RESIDENT  
 11141 CHILDS AVE  
 LE GRAND CA 95333-9799

Please check here if you would like me to notify you via email or mail of upcoming High Speed Rail public hearings or meetings for the next 12 months.

Please check all that are applicable.

182-1

- I STRONGLY SUPPORT THE A-2 HIGH SPEED RAIL ROUTE ALTERNATIVE (UNION PACIFIC RAIL ROAD/HIGHWAY 99) AND AM AGAINST THE A-1 ROUTE ALTERNATIVE.
- I SUPPORT THE A-2 ROUTE BECAUSE IT'S CLOSEST TO A MAJOR TRANSPORTION CORRIDOR.
- I SUPPORT THE A-2 ROUTE BECAUSE IT WOULD LEAST IMPACT FARMLAND AND HABITAT AREAS.
- I AM AGAINST THE A-1 ROUTE BECAUSE IT MOST NEGATIVELY AFFECTS THE COMMUNITY I LIVE IN.

Please provide any additional reasons or comment as to why you support an A-2 route.

182-2

I ALSO STRONGLY DO NOT SUPPORT THE CONCEPT OF THE HIGH SPEED RAIL AS IT IS BEING PRESENTED.  
Tom Stillman

Please note that your comments provided on this sheet will be forwarded to the California High Speed Rail Authority for their public comment records.

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## Response to Submission 182 (Tom Stillman, September 14, 2011)

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**182-1**

See MF-Response-GENERAL-10. Also see Chapter 7 Preferred Alternative of the EIR/EIS which summarizes the relative differences between the alternatives and identifies the Hybrid Alternative as the preferred alternative for the Merced to Fresno Section.

**182-2**

See MF-Response-GENERAL-14.



Submission 116 (Vicki Strickland, September 19, 2011)

Merced - Fresno - RECORD #116 DETAIL

Status : Action Pending  
Record Date : 9/19/2011  
Response Requested :  
Stakeholder Type : Business  
Submission Date : 9/19/2011  
Submission Method : Website  
First Name : Vicki  
Last Name : Strickland  
Professional Title : Owner  
Business/Organization : Double Creek Ranch  
Address :  
Apt./Suite No. :  
City :  
State : CA  
Zip Code : 95341  
Telephone :  
Email : vrs.mes.photo@gmail.com  
Cell Phone :  
Email Subscription : Fresno - Bakersfield, Merced - Fresno  
Add to Mailing List : Yes  
Stakeholder  
Comments/Issues :  
EIR/EIS Comment : Yes

116-1

I believe there has not been enough time allotted to review the EIR report. This is a major infrastructure project if not THE largest for California. The 60 days you have given us is suited more for the building of a school or mini-mall. There are 30 thousand plus pages we need to read and understand. It is nigh-on impossible for we as citizens and business owners to get though all of this information in the allotted time. I ask that the review time be extended. Six months might cover it!

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Response to Submission 116 (Vicki Strickland, September 19, 2011)

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**116-1**

See MF-Response-GENERAL-7.

Submission 570 (Matthew Strickland, October 12, 2011)

Merced - Fresno - RECORD #570 DETAIL	
Status :	Action Pending
Record Date :	10/12/2011
Response Requested :	
Stakeholder Type :	CA Resident
Submission Date :	10/12/2011
Submission Method :	Website
First Name :	Matthew
Last Name :	Strickland
Professional Title :	Partner
Business/Organization :	Double Creek Dairy
Address :	
Apt./Suite No. :	
City :	Merced
State :	CA
Zip Code :	95341
Telephone :	209-769-2813
Email :	mstrickland22@live.com
Cell Phone :	
Email Subscription :	Fresno - Bakersfield, Merced - Fresno, Sacramento - Merced, San Jose - Merced
Add to Mailing List :	Yes

Stakeholder  
 Comments/Issues :

October 10, 2011  
 High Speed Rail Authority  
 To Whom It May Concern,

I am a fourth generation dairyman in Merced, California. This letter is in response to the Environmental Impact Report regarding the High Speed Railroad Merced to Fresno section specifically the A1 Mission Route. The A1 Mission Route goes straight through my dairy operation on Merced County APN's: 053-120-026-000, 053-120-024-000, 053-120-027-000, 067-030-015-000.

This dairy is a family business. The land and facilities are owned by my parents Rob and Victoria Strickland and I along with my wife Sarah, are partners in the dairy with my grandparents Henry and Marie teVelde. My wife and I have four children that we hope will continue the family business at this site. This will not be possible if this route is chosen. I have spent much of my life preparing to go into the dairy business. I attended CSU Fresno where I attained a Bachelor's degree in Agricultural Economics in 2009 and also managed the schools dairy herd. I would like to be able to put my time, money and hard work to good use by continuing in the family business. We also live on this dairy and the proposed railway goes within fifty yards of our home. We feel this would be an unsafe area to raise our children and would be forced from our home.

As far as the dairy is concerned if the A1 Mission route on APN 067-030-015-000 is chosen for the Merced to Fresno Section it will render the dairy useless. The railway would divide the dairy in two while also disrupting cow comfort by taking away corral space. It would also render the milking barn useless because the area where the milk is unloaded into trucks would no longer exist as the railway goes straight through it. The manure storage facilities would also be compromised causing the dairy to be in breach of current water and air quality rules and regulations. There would also be an issue of the fields being split into irregular shapes. This would force us to remodel all of the irrigation for the entire ranch. Lagoon water must be able to reach all of the farm land to be in compliance with water quality board.

The only solution if the A1 Mission Route is chosen would be for the dairy to be relocated. This would be very expensive and time consuming. The possibility of relocating in the state of California is slim to none because it is highly unlikely a permit would be issued so it is most likely that the dairy would have to be relocated out of the state. Either way this would be a lengthy process. Time would have to be provided to find property, permit the property for the dairy, find a market for our milk, construct or remodel a facility, etc. These would have to be completed before construction of the High Speed Rail is started. We feel this is would take a minimum of four years to complete which does not fall within the HSR construction time limits.

The choice of the A1 Mission route does not just affect me and my family but also the local economy. Twenty people are employed by this farm alone. These people will be out of work if the business is forced to move. A study done in 2008 by J/D/G Consulting Inc. found that for every "on-the-farm" job provided by the dairy industry there are twenty-two "beyond the farm" jobs created. That means that there will be a loss of 440 local jobs just as a result of our farm going out of business. This does not include any of the other farmers and ranchers whose farms are also compromised by this route. Agriculture is one of our states biggest sources of income. The dairy industry alone stimulates \$63 Billion of economic activity by producing 41.2 billion pounds of milk. That is roughly \$1.53 per pound of milk. This dairy alone produces about 4 million lbs of milk per month. I cannot for the life of me understand why in these economic times anyone would want to cut off one of the state's largest sources of income no matter what the reason.

In conclusion I would like to state that I feel the A2 route along Highway 99 is a much better alternative. It would be a more direct route from the

570-1

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Submission 570 (Matthew Strickland, October 12, 2011) - Continued

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Fresno station to the Merced station. It also follows already existing infrastructure and would disrupt less agricultural land. Keep land designated for transportation for transportation and leave land for agriculture for agriculture. My partners and I will be available for an onsite discussion of our site.  
Sincerely,

Matt Strickland  
Double Creek Dairy  
(209)-769-2813  
mstrickland22@live.com  
Yes

EIR/EIS Comment :

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Response to Submission 570 (Matthew Strickland, October 12, 2011)

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**570-1**

See MF-Response-AGRICULTURE-3, MF-Response-AGRICULTURE-4, MF-Response-AGRICULTURE-6, and MF-Response-GENERAL-4.

Submission 185 (Robert and Victoria Strickland, September 14, 2011)

8632 Meadow Drive  
Winton, CA 95388-9616  
September 2, 2011

Chairman Curt Pringle  
California High Speed Rail Authority  
925 L Street, Suite 1425  
Sacramento, CA 95814

Dear Mr. Pringle:

We are writing again to express our concern over the HSR routes which loop east of the BNSF line near Planada. We are a third generation dairy family. Specifically our dairy operates on Merced County A.P.N. 067-030-015.

185-1

In a prior letter we expressed our concerns that the rail line would go through the middle of our dairy farm and render it impossible to continue the dairy operation at this site. The HSR line would create the following problems:

- a. Moving animals from one pasture to another;
- b. Moving farming equipment from one field to another;
- c. Leaving irregular shaped parcels which are impractical to farm;
- d. Bisecting irrigation lines and facilities.

Our entire property and the dairy facilities would have to be condemned. The relocation of the dairy would have to be concluded before construction commenced as it would not be possible to operate the dairy during construction.

185-2

As an alternative to the sizeable loop to the east, why not use the method used by the highway engineers who built the freeways in the Valley in the 1950s through the 1970s. They used the existing highway right-of-way and when they came to a town, they merely diverged from the highway right-of-way which bisected the town to make a small loop around the town on agricultural land sufficient to bypass the town and then rejoined the existing highway right-of-way. This plan should be less costly as it travels a shorter distance and does not damage as much agricultural land as the large looping alternatives like the Planada route.

Sincerely,



Robert L. Strickland



Victoria R. Strickland

8632 Meadow Drive  
Winton, CA 95388-9616  
August 31, 2011

Chairman Curt Pringle  
California High Speed Rail Authority  
925 L Street, Suite 1425  
Sacramento, CA 95814

Dear Mr. Pringle:

The purpose of this letter is to state objections to the most northerly portion of the route identified as A1 across Owings Creek and just south of Planada into Merced. Our family, which represents the second, third and fourth generations of California dairymen, owns properties identified as Merced County A.P.N.s 053-120-024, 026 and 027. Our home and dairy site are on Merced County A.P.N. 067-030-015. This northerly route of the proposed A1 route would cut our dairy site in the middle and make it non-functional. Specific concerns are as follows:

185-3

1. Issues of access for farm equipment. Given the projected speed of the trains at 220 miles per hour, common sense indicates no surface crossings for farm equipment will be available. This means that points of access under or over the proposed northerly route of A1 would be a mile or two or more apart and would significantly impede farming operations.
2. Organic. With organic milk sales increasing by 15% per year, the family may elect or be required by our milk processor to convert to an organic operation which would require pasturing of the cows. This would require either an underpass or an overpass permitting the cows to migrate from one pasture to another on opposite sides of any high-speed rail track traversing our property.
3. Farming issues. By intersecting the farm, the efficiency of the farming operation would be significantly impacted by creating smaller parcels which would be more difficult to farm and involve considerable additional moving of labor and equipment from one side of the tracks to the other.
4. Irrigation. Irrigation and the use of nutrient water from the dairy lagoon are currently serviced by pipelines which would be intersected by the proposed northerly route of A1. If these pipelines have to be rerouted or cannot be used, it would severely impact our dairy and farming operation as further detailed in this letter.
5. Environmental restrictions. Current environmental restrictions require certain amounts of acreage to be utilized for the disbursal of nutrient water and, therefore, if this access for disbursal of nutrient water is interfered with in any way, then the entire dairy would be rendered valueless as it could not operate with its acreage being reduced by half resulting in a dairy herd being required to be cut in half, thus rendering the dairy a non-competitive unit.

Submission 185 (Robert and Victoria Strickland, September 14, 2011) - Continued

Chairman Curt Pringle  
August 31, 2011  
Page 2

October 25, 2010

185-3

6. Environmental compliance. With all the environmental compliance requirements imposed on dairies, and all of the studies and reporting requirements that are now imposed by the California Air Board and the California Water Board, as well as others, small dairies cannot afford to hire consultants to comply with all of the testing and reporting requirements. It requires a certain critical mass of size to function in the current regulatory environment.

Chairman Kurt Pringle  
California High Speed Rail  
925 L Street  
Suite 1425  
Sacramento CA 95814  
Chairman Pringle,

185-4

The alternative of using the Union Pacific route from Fresno direct through Madera and Chowchilla would be preferable, but we understand that building through communities requires the train to be elevated and the cost of going through Madera more expensive. We suggest for consideration running the route north from Fresno on the Union Pacific railroad as indicated, then using the A1 route to bypass Madera coming back into the Burlington Northern railroad route at Fairmead and continuing north through Chowchilla to Merced on the Burlington Northern route. The route through Chowchilla at the Union Pacific track does not have considerable development adjoining the existing tracks and Chowchilla is obviously a much smaller community than Madera. This would provide a more direct route and, thus, the cost savings in a more direct route rather than using the A1 route all the way to Planada might offset the additional cost of elevating the track through the small community of Chowchilla.

I am writing this letter in regards to the possible route of the high speed rail project that follows Miles Creek. This proposed route would divide my family's two ranches Merced County APN's: 053-120-026-000, 053-120-024-000, 053-120-027-000, 067-030-015-000. I will be the fourth generation of my family to dairy farm beginning December 1, 2010 when my wife Sarah and I become partners in the dairy business with my grandfather Henry teVelde. I am a recent graduate of CSU Fresno with a degree in Agricultural Business with a minor of Dairy Science. I have put forth a lot of time and effort to prepare myself for the task that lies ahead of me. If this proposed route is chosen my family's business could be in jeopardy. By separating the two properties the dairy, under current environmental regulations, would not be able to continue at this location. This is a major threat to our business because the ability to relocate in the state of California is slim to none. With current environmental regulations it is nearly impossible to build a new dairy facility and finding a used facility that is up to environmental code is not an easy task. This would impose a major cost to the high speed railroad project because it would not only be using farm land but also taking dairy land. The cost of relocating a dairy in California is very large. Besides the cost of the land there are many permit fees that are very expensive. Then there is also the cost of building the facility.

In summary of this letter of objection, if the most northerly route of Planada is selected, it would effectively destroy our farm for a dairy operation. Our son has just finished college, obtaining degrees in agribusiness and dairy science with a view toward acquiring the dairy herd and continuing our dairy operation for a fourth generation. We certainly hope he will have this opportunity and that you can find an alternate route rather than destroy our dairy.

I hope that the explanation above will be considered when choosing the route of the high speed railroad. This decision will affect not only my future but also the future of my children who may also follow in the family business.

Sincerely,  
  
Robert L. Strickland

Sincerely,  
Matt & Sarah Strickland

Victoria R. Strickland  


Manager, Double Creek Dairy

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Submission 185 (Robert and Victoria Strickland, September 14, 2011) - Continued

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October 20, 2010

California High Speed Rail Authority  
925 I. Street  
Suite 1425  
Sacramento CA 95814

To Whom It May Concern:

I am a second generation family dairy farmer in Merced County. This letter is in reference to Merced County APN's: 053-120-026-000, 053-120-024-000, 053-120-027-000, 067-030-015-000. We are opposed to the HSR bisecting our dairy farm leaving 43% north of the railway and 57% south of the railway.

This bisection has the potential to disrupt our dairy operation and put us out of business. We need connection between these properties to move farm implements such as tractors, discs, feed choppers and trucks. We also need to transport, via pipeline, nutrient and fresh water from one side to the other. When pasturing cows, we need connection for cows to walk between these parcels, not be trucked. If any of this is disrupted, it would put us out of business.

Currently, due to prohibitive permitting for dairies, it would be impossible to relocate in California. Furthermore, we would be unable to supply our processors if we moved elsewhere.

You should choose the route along highway 99 because it is the shortest. It makes no sense to add additional miles to the route by going through the Le Grand area. Your goal is high speed and additional miles just make the time of travel longer.

My daughter and son in law, Robert and Victoria Strickland are involved in our business as well as my grandson and his wife, Matt and Sarah Strickland. Matt and Sarah will be buying the cows in December and be the fourth generation. They have three small children who we hope some day will be fifth generation family farmers.

My wife and I have spent our entire life building this farm and we are dependant on it's viability in the future for our retirement.\

Please do not disrupt our family farm by choosing this route.  
Thanks in advance for not choosing the route through our farm.  
Sincerely,

Henry and Adrienne te Velde



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## Response to Submission 185 (Robert and Victoria Strickland, September 14, 2011)

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### **185-1**

See MF-Response-AGRICULTURE-2, MF-Response-AGRICULTURE-3, MF-Response-AGRICULTURE-4, MF-Response-AGRICULTURE-6 and MF-Response-GENERAL-4.

### **185-2**

The Authority has reviewed the alignment along the Mission Avenue Design Option to consider shifting or modifying the design to avoid the dairy property. A shift in the alignment would require the alignment shifting at both the departure from where the HST crosses SR 99 and where it aligns north of Le Grand since small avoidance that require curvatures are not feasible at the required HST speeds. A shift north would impact far more natural and irrigation waterways and a shift southward would impact the SR 99 and Mission Avenue interchange, both of these impacts result in larger proportional impacts than the relocation of a dairy. This does not mean that relocating a dairy is not considered a substantial effect. The Authority is researching their ability to facilitate these relocations if necessary. However, it may also be of interest to note that the Authority has identified the Preferred Alternative as the Hybrid Alternative which does not incur this impact on this dairy. Also see the response to MF-Response-AGRICULTURE-6.

### **185-3**

See MF-Response-AGRICULTURE-2, MF-Response-AGRICULTURE-3, MF-Response-AGRICULTURE-4, MF-Response-AGRICULTURE-6, and MF-Response-GENERAL-4.

### **185-4**

The suggested alternative is very similar to the Hybrid Alternative described and analyzed in the EIR/EIS. CEQA and NEPA require an EIR/EIS to examine a range of reasonable alternatives, but do not require every possible alternative to be examined. Because the suggested alternative is so similar to the Hybrid Alternative, the Authority has essentially examined that suggestion in the EIR/EIS. Also see MF-Response-GENERAL-2.

Submission 623 (Angela Swanson, October 11, 2011)

Angela Swanson  
6783 Avenue 23 1/2  
Chowchilla, CA 93610  
559 706-3142

RECEIVED  
10-11-11 10:36 RCVD

10-07-2011

To whom it may concern,

623-1

I am writing to oppose the high speed rail system that has been proposed for the Chowchilla, Fairmead areas.

I have many strong feelings about why the rail should not be pushed upon us, as an eye sore and noise pollutant, Disturbing our way of life and the peacefulness of the community. However strong those feelings may be, my main fear and concern is for the financial wellbeing of the farmers and employees of the farmers in the area.

We are a farming community; I believe cutting the farm land into small parcels will undoubtedly affect the income of the local farmers. I myself work for a farmer that would be greatly affected by this proposed rail system, along with thirty-seven other employees. Most of who have families that would greatly be affected as well. We are a working community thanks in great to the farmers.

I urge you to reconsider the proposed rail and instead consider the people of Chowchilla and Fairmead. Not just their land.

Sincerely,

Angela Swanson

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Response to Submission 623 (Angela Swanson, October 11, 2011)

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**623-1**

See MF-Response-GENERAL-10 and MF-Response-GENERAL-14

Submission 705 (Ashley Swaengin, October 13, 2011)



MAYOR ASHLEY SWEARENGIN

October 13, 2011

Mr. Roelof van Ark, CEO  
California High-Speed Rail Authority  
770 L Street, Suite 800  
Sacramento, California 95814

**RE: Comments regarding Merced to Fresno High Speed Train Draft EIR/EIS  
Fresno to Bakersfield High Speed Train Draft EIR/EIS**

Dear Mr. van Ark:

705-1

As a strong supporter of starting high-speed rail construction in the Central Valley, I wish to commend you for your efforts in moving the project forward through the preparation of the two EIR/EIS documents for the Fresno to Merced and Fresno to Bakersfield segments. The project will further the economic development of our region through creation of jobs centered around this new industry, in particular the Downtown High Speed Rail Station to be located at Mariposa Street and the Heavy Maintenance Facility which we believe should be located in Fresno County due to its numerous advantages as presented in the Fresno Works proposal. The City of Fresno appreciates the hard work undertaken by you and your team, including numerous meetings here in Fresno with our staff and the Authority's team of consultants.

However, much work remains to be done in order to make the California High Speed Rail project the best for the State of California, for our metropolitan region and for the local community. You will be receiving a detailed letter from our City Manager Mark Scott that includes very specific comments on each point of concern with the High Speed Rail project. We are requesting not only that you review and respond to these comments, but that you would direct the engineering consultants to begin working with our City team immediately to revise the construction plans as necessary in order to address the City's concerns. I am highlighting several of these major concerns below:

705-2

- The need for underpasses versus overpasses at several street-railroad grade separations, in order to provide the community with a project that mitigates its impacts upon traffic, aesthetics and socioeconomics/environmental justice to an acceptable level. The City is ready and willing to sit down with the Authority and the Union Pacific Railroad to work through any issues related to construction of underpasses along the HST/UPRR corridor.
- A Traffic Management Plan needs to be included within the EIR/EIS now, with specific mitigations and limitations for street closures or lane closures, in order to keep our community functioning during construction. It is not acceptable to postpone working through those issues until after the design-build contractor is hired by the Authority.

Fresno City Hall • 2600 Fresno Street • Fresno, California 93721-3600  
(559) 621-8000 • FAX (559) 621-7990 • www.fresno.gov

Mr. Roelof van Ark  
DEIR/EIS Comments: Merced to Fresno and Fresno to Bakersfield  
Page 2

705-2

- In order to help mitigate construction impacts around the crossings of Highway 99 and the UPRR corridor, Veterans Boulevard needs to be constructed from Shaw Avenue to Herndon Avenue, including the connections to Highway 99 and Golden State Boulevard, as part of the High Speed Rail construction project.

705-3

- Economic impacts to businesses, sales tax and property tax need to be not only analyzed in greater depth, but also mitigated in part through the creation of a Business Relocation Team. This team needs to be funded by the Authority and would include working with community partners to assist impacted businesses find a new location as well as assist the City in processing new site plans, permits and all necessary steps to get them up and running as quickly as possible in their new location.

705-2

- We continue to ask that a depressed (trenched) alignment through downtown Fresno be evaluated in the EIR/EIS. While the at-grade option is far superior in the City's opinion to the previously proposed 60' high elevated structure, the EIR/EIS still needs to evaluate a depressed alignment in the Downtown area which our engineering consultant team has demonstrated to be a feasible alternative for consideration.

705-4

- The High Speed Rail project needs to make whole Roeding Park and the Zoo, as a result of the loss of Golden State Boulevard and the new main access point which was included in the previously certified Zoo EIR and Master Plan. A specific mitigation measure needs to be included in the High Speed Rail project EIR/EIS.

We remain committed to working with you and your team toward the successful completion of the project. Should you have any questions regarding the City's comments on the draft EIR/EIS, please do not hesitate to contact me.

Sincerely,

Ashley Swaengin  
Mayor

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## Response to Submission 705 (Ashley Swearingin, October 13, 2011)

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### **705-1**

Thank you for your comment and continued support of the project. Regarding your comments on economic development related to the downtown Fresno Station and the HMF, see MF-Response-GENERAL-9 and MF-Response-GENERAL-15.

### **705-2**

The Authority recognizes that the HST in some situations to go over or under streets and highways. The situational needs to construct an overpass as opposed to an underpass (or vice versa) are based on a number of factors, chief among these being engineering feasibility and prudent cost considerations.

See MF-Response-TRAFFIC-1.

In regards to the City's comment on full construction of Veterans Boulevard, the Authority and FRA are only responsible for the project and effects as defined in the EIR/EIS. The EIR/EIS includes a portion of the Veterans Blvd construction. Additional development of this project would be the responsibility of Fresno.

Through further engineering and discussions with Fresno, the trench option was found to be considerably more costly without providing the intended benefits. Trenching the HST alone would not provide desired benefit to Fresno and while trenching both HST and UPRR RR would be possible, it would be even more costly and critical spur lines would be overly constrained and impractical. Additionally, this option would require a longer construction period, which would not meet the Federal ARRA funding requirements. Through cooperative discussions, the Authority and Fresno reached agreement on a at-grade profile with some areas the profile lowered where possible.

### **705-3**

See MF-Response-SOCIAL-2 and MF-Response-SOCIAL-8. The HST project's level of design somewhat limits the level of detail that the EIR/EIS analysis can achieve. The analysis looked at replacement properties within the citywide relocation replacement areas and within a 30-mile radius within the unincorporated portions of the counties. The analysis identified locations near the areas where the acquisitions occur for the business and residential acquisitions in the City of Fresno, so businesses could be relocated in close proximity to their existing locations. All businesses and residential properties

### **705-3**

acquired would be compensated. SO-MM#2 in Section 3.12.7 provides information on the relocation plan that will be developed as part of the HST project and Appendix C, Relocation Information, in the Community Impact Assessment, provides additional information on the compensation provided.

Section 3.13, Station Planning, Land Use, and Development, provides information on the amount of land that will be converted to a transportation related use. The conversion of land to a transportation related use is not anticipated to result in any negative effects on the adjacent land use. Refer to MF-Response-LAND USE-4 for information on the effects on future land use.

Appendix 3.12-A, Relocation Assistance Documents, provides information on the relocation process for those displaced by the HST Project. Everyone will personally work with a Relocation Agent from the Authority. If the high-speed train project will require a considerable number of people to be relocated, the Authority may establish a temporary Relocation Field Office on or near the project. Project relocation offices will be open during convenient hours and evening hours if necessary. In addition to these services, the Authority is required to coordinate its relocation activities with other agencies causing displacements to ensure that all persons displaced receive fair and consistent relocation benefits. SO-MM#2, Develop a relocation mitigation plan, has been updated based on the City of Fresno suggestions and includes additional information on what will be included in the mitigation relocation plan including an ombudsman's position to act as a single point of contact for property owners, residents, and tenants with questions about the relocation process. The ombudsman would also act to address property owners', tenants', and other residents' concerns about the relocation process as it applies to their situations. The Authority is currently coordinating with the City of Fresno and the EDC to assist with these relocation needs. In support of this, the Authority is currently developing a cooperative agreement that would help support the city with business relocation needs such as staff time and permit assistance.

### **705-4**

As noted in Draft EIR/EIS Section 3.15.5.3, the proposed projects described in the Roeding Regional Park and Fresno Chaffee Zoo Facility Master Plans in June 2011 (City of Fresno 2011) would not conflict with the adjacent HST project, except for

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Response to Submission 705 (Ashley Swearingin, October 13, 2011) - Continued

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**705-4**

the planned park boulevard entrance and exit at Golden State Boulevard. The other proposed projects could proceed as designed. Regarding Golden State Boulevard, the Roeding Regional Park and Fresno Chaffee Zoo Facility Master Plans identifies a new boulevard through the middle of the park connecting with a new entrance and exit on Golden State Boulevard. However, Golden State Boulevard would be closed under the HST project (i.e., the project would require the closure of Golden State Boulevard east of Roeding Park, precluding a direct connection). Accordingly, construction of the boulevard as contemplated in the master plan would conflict with the HST design. The Authority is currently working with the City of Fresno and the zoo to resolve this planning conflict. Roeding Park has two existing entrance and exit points (Olive Avenue and Belmont Avenue), which would remain under the master plan scenario. Moreover, the HST project would construct new overcrossings at Olive Avenue and Belmont Avenue to carry traffic over the HST guideway, which would facilitate continued access to these existing entrance and exit points. The parties involved agree that utilizing Olive Avenue and Belmont Avenue as primary entrances to the zoo instead of Golden State Boulevard is a feasible solution. The involved parties agree that the goals of the Master Plans can be served with these entrances, and the Authority is continuing to work with the City of Fresno and the zoo on an MOU that will outline how the Master Plans will be updated to reflect the HST project.

Submission 726 (Curt Taras. P.E., MSCE, October 13, 2011)

STATE OF CALIFORNIA – CALIFORNIA NATURAL RESOURCES AGENCY  
**CENTRAL VALLEY FLOOD PROTECTION BOARD**  
3310 El Camino Ave., Rm. 151  
SACRAMENTO, CA 95821  
(916) 574-0609 FAX: (916) 574-0682  
PERMITS: (916) 574-2380 FAX: (916) 574-0682

EDMUND G. BROWN JR., GOVERNOR



October 13, 2011

Mr. Dan Levitt  
California High-Speed Rail Authority  
Merced to Fresno Draft EIR/EIS Comments  
770 L Street, Suite 800  
Sacramento, California 95814

Subject: Response to the California High-Speed Train Project Merced to Fresno Draft Environmental Impact Report/Environmental Impact Statement SCH Number: 2009091125

Dear Mr. Levitt:

Staff of the Central Valley Flood Protection Board (Board) has reviewed the subject document and provides the following comments:

The proposed project is located within the jurisdiction of the Central Valley Flood Protection Board. The Board is required to enforce standards for the construction, maintenance and protection of adopted flood control plans that will protect public lands from floods. The jurisdiction of the Board includes the Central Valley, including all tributaries and distributaries of the Sacramento River, the San Joaquin River, and designated floodways (Title 23 California Code of Regulations (CCR), Section 2).

A Board permit is required prior to starting the work within the Board's jurisdiction for the following:

- The placement, construction, reconstruction, removal, or abandonment of any landscaping, culvert, bridge, conduit, fence, projection, fill, embankment, building, structure, obstruction, excavation, the planting, or removal of vegetation, and any repair or maintenance that involves cutting into the levee (CCR Section 6);
- Existing structures that predate permitting or where it is necessary to establish the conditions normally imposed by permitting. The circumstances include those where responsibility for the encroachment has not been clearly established or ownership and use have been revised (CCR Section 6);
- Vegetation plantings will require the submission of detailed design drawings; identification of vegetation type; plant and tree names (i.e. common name and scientific name); total number of each type of plant and tree; planting spacing and irrigation method that will be within the project area; a complete vegetative management plan for maintenance to prevent the interference with flood control, levee maintenance, inspection and flood fight procedures (CCR Section 131).The Central Valley Flood Protection Board (Board).

Mr. Dan Levitt  
October 13, 2011  
Page 2 of 4

Board staff has reviewed the subject document and provides the following comments:

726-1

1. The Fact Sheet shows "Permits, Approvals and Consultations Federal...Central Valley Flood Protection Board – Section 408 (flood protection facilities)." The statement does not list the Central Valley Flood Protection Board's regulations and should be revised to show:

"Central Valley Flood Protection Board - The Board enforces standards for the construction, maintenance and protection of adopted flood control plans that will protect public lands from floods. The jurisdiction of the Board includes the Central Valley, including all tributaries and distributaries of the Sacramento River, the San Joaquin River, and designated floodways (Title 23 California Code of Regulations (CCR), Section 2). The Board has all the responsibilities and authorities necessary to oversee future modifications as approved by the U.S. Army Corps of Engineers (Corps) pursuant to assurance agreements with the Corps and the Corps Operation and Maintenance Manuals under Title 33 Code of Federal Regulations, Section 208.10 and Title 33 United States Code, Section 408."

2. Page 2-102 shows "Central Valley Flood Protection Board Section 208 (flood protection facilities)".

The statement should be revised to show "Central Valley Flood Protection Board - The Board enforces standards for the construction, maintenance and protection of adopted flood control plans that will protect public lands from floods. The jurisdiction of the Board includes the Central Valley, including all tributaries and distributaries of the Sacramento River, the San Joaquin River, and designated floodways (Title 23 California Code of Regulations (CCR), Section 2). The Board has all the responsibilities and authorities necessary to oversee future modifications as approved by the U.S. Army Corps of Engineers (Corps) pursuant to assurance agreements with the Corps and the Corps Operation and Maintenance Manuals under Title 33 Code of Federal Regulations, Section 208.10 and Title 33 United States Code, Section 408."

726-2

3. Page 3.7-105 shows "The habitat creation, restoration and/or revegetation ratios presented here are based upon and ultimately depend on the type of impact (i.e., permanent or temporary), scarcity of the resource, and performance anticipated."

The statement should be revised to show "The habitat creation, restoration and/or revegetation ratios presented here are based upon and ultimately depend on the type of impact (i.e., permanent or temporary), scarcity of the resource, and performance anticipated. Vegetation plantings within the jurisdiction of the CVFPB would require a vegetative management plan for maintenance to prevent the interference with flood control, levee maintenance, inspection and flood fight procedures (CCR Section 131)."

726-3

4. Page 3.8-7 shows "Information regarding these features and their conditions originates in the following sources:..." The following statement should be included "...; tributaries and distributaries of the San Joaquin River, regulated streams and designated floodways in Title 23 California Code of Regulations (CCR)."

Submission 726 (Curt Taras, P.E., MSCE, October 13, 2011) - Continued

Mr. Dan Levitt  
October 13, 2011  
Page 3 of 4

726-3

5. Page 3.8-13 shows "For a proposed crossing that could affect a federal flood control project, the CVFPB coordinates review of the application with the USACE and with other agencies, as needed."

The statement should be revised to show "For a proposed crossing that could affect a federal flood control project, the CVFPB coordinates review of the application with the USACE for approval under 33 USC 408."

6. Table 3.8-4 Natural Water Body Crossings Page 3.8-19 should be revised to include "Bear Creek" which is located in Merced as identified in Figure 2-53 page 2-71 and "Canal Creek" south of Atwater as identified in Figure 2-47, page 2-64.
7. Page 3.8-38 shows "For a crossing proposed for a federal flood control project, the CVFPB coordinates review of the application with the USACE and other agencies, as necessary. Under Section 408 of the Rivers and Harbors Act, the USACE must approve any proposed modification that involves a federal flood control project. A Section 408 permit would be required if construction modifies a federal levee. A Section 208.10 permit would be required where the project encroaches on a federal facility but does not modify it.

The statement should be revised to show "For a proposed crossing or placement of structure near a federal flood control project the CVFPB coordinates review of the encroachment permit application with the USACE pursuant to assurance agreements with the Corps and the Corps Operation and Maintenance Manuals under Title 33 Code of Federal Regulations, Section 208.10 and Title 33 United States Code, Section 408."

726-4

8. Bridges crossing any State project levee shall span over the levee and have at least 5 feet vertical clearance over the levee crown and 20 feet horizontal clearance from the levee toes for maintenance and inspection.
9. Bridge piers placed in the flood channel shall be designed to minimize changes in water surface elevation, velocity, and scour.
10. Bridges crossing any non- project levee shall have at least 3 feet vertical clearance over the levee crown for maintenance and inspection.
11. The levee under a proposed bridge shall be armored with a concrete slab 6 inches thick to protect it from erosion and rodent burrowing.
12. When a levee crown patrol road is blocked by a bridge, a detour road not to exceed 3 miles shall be provided around the track via a nearby underpass or overpass that has 15 feet minimum vertical clearance.
13. Bridges crossing any floodway or regulated stream shall have at least 3 feet of vertical clearance over the design flood water surface elevation. The design flood flow shall be the runoff calculated for the 200 year return period storm for urban and urbanizing areas and the 100 year return period storm for rural areas unless specified differently.

Mr. Dan Levitt  
October 13, 2011  
Page 4 of 4

726-5

14. The maps found at <http://gis.bam.water.ca.gov/bam/> should be used to identify the locations of levees and floodplains that the high speed rail track will cross in the central valley.
15. The project EIR should determine or calculate the channel flow rate for the design storm flood for each waterway crossing. This information shall be listed in a table ready to be used by the bridge designers. This task should not be left for the design-build team since the design storm and flow rate for flood channels affected by proposed bridges/culverts should be available for public review and comment.
16. Permitting of bridges and culverts by the CVFPB will require a publicly noticed approval process estimated to take 180 days from receipt of applications. The High Speed Rail Authority should obtain the CVFPB permits for each waterway crossing prior to soliciting the project to Design-Build contractors. Permitting the project in advance will result in a lower project cost and shorter completion time because there is less uncertainty for the contractor.

726-6

17. The statewide track alignment alternatives should show potential future high speed rail connections to Las Vegas and Phoenix under consideration by the Federal Railroad Administration plan.
18. The statewide track alignments should more clearly show the transit connections to major airports and local passenger rail and bus service routes.

The permit application and the California Code of Regulations Title 23 can be found on the Central Valley Flood Protection Board's website at <http://www.cvfpb.ca.gov/>. Contact your local, federal and state agencies, as other permits may apply.

If you have any questions, please contact me at (916) 574-0684 [ctaras@water.ca.gov](mailto:ctaras@water.ca.gov) or James Herota, Staff Environmental Scientist at (916) 574-0651, [jherota@water.ca.gov](mailto:jherota@water.ca.gov).

Sincerely,



Curt Taras, P.E., MSCE  
Chief, Permitting and Enforcement Branch

cc: Governor's Office of Planning and Research  
State Clearinghouse  
1400 Tenth Street, Room 121  
Sacramento, CA 95814



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## Response to Submission 726 (Curt Taras. P.E., MSCE, October 13, 2011)

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### 726-1

These text changes were made in the Final EIR/EIS as requested by the commenter. Both the Fact Sheet and Table 2-16 (Potential Major Environmental Permits and Approvals) were updated.

### 726-2

See MF-Response-Bio-3

The discussion presented on pages 3.7-105 of the Draft EIR/EIS are introductory comments only and generally applicable to the intent of the overall mitigation program. These introductory comments are not specific mitigation measures nor do they represent all terms and conditions that will be part of the overall resource protection program for the HST project. This discussion is for general purposes in order to discuss any issues presented in the mitigation discussion.

The requested vegetation provisions are found in mitigation measures Bio-MM#6, Bio-MM-#15, and Bio-MM#44.

### 726-3

4. The requested text change was made to Section 3.8 of the Final EIR/EIS.

5. The requested text change was made to Section 3.8 of the Final EIR/EIS.

6. Bear Creek and Canal Creek are not discussed in Table 3.8-4 (Natural Water Body Crossings) because they are not located along any of the HST alignment alternatives. Rather, they are located along the access track for the Castle Commerce Center HMF Alternative. As such, they are described in the later section discussing stream crossings associated with the HMF alternatives (see Heavy Maintenance Facilities under Section 3.8.4.3, Hydrology and Water Quality in the Study Area).

7. The requested text change was made to Section 3.8 of the Final EIR/EIS.

### 726-4

# 8. This proposal will be taken under consideration, and is probably workable in many instances. However, it is unclear at this time whether the proposed requirement has

### 726-4

agreement from USACE for state-federal flood-control projects, and it is unclear how it relates to requirements from USACE to have at least 10 feet of clearance from the levee toe, with a typical recommendation of 15 feet to be safe for most projects. Our understanding is that the legal clearance right-of-way from the levee toe varies by project from 10 to 20 feet, and is only 20 feet in rare instances, with 10 feet being most common. Also, USACE has indicated that in lieu of providing clearance, it may be acceptable to substitute a solid abutment (fill in up to and including the levee) with an armored, low-maintenance face. There may be instances where such an approach would be discussed with CVFPB for concurrence. We are hopeful that CVFPB and USACE can issue a joint written standard, and anticipate joint discussions regarding expectations and possibly exceptions if they become needed for specific crossings.

# 9. We interpret "minimize" in the general sense of being reasonable and meeting threshold criteria, rather than demonstrating the best performance possible. Performance will likely be balanced against cost. Our understanding is that USACE has set a tolerable incremental rise criteria of 0.1 feet. We have not identified specific thresholds for velocity or scour by USACE or CVFPB, apart from meeting normal engineering standards for stable bridge design.

# 10. Thank you for this clarification between project and non-project levees.

#11. Thank you for this clarification, as this appears to be a new requirement. We would appreciate the source for this requirement for documentation.

#12. Thank you for this clarification, as it will help bring clarity and consistency. In some cases, levee districts have informally expressed interest in 2 miles for a maximum detour, which may not always be possible at reasonable cost.

#13. Thank you for making your design expectations with respect to the 200-year flood clear. Since legal requirements to design to the 200-year flood have not yet taken effect, and 200-year flow rates have not yet been issued by USACE, the Authority has not yet set this as a definitive design standard, and is reviewing the issue. CVFPB input is important in resolving this issue. Confirmation from CVFPB in interpreting which crossings fall within "urban and urbanizing areas" will also be appreciated.

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Response to Submission 726 (Curt Taras. P.E., MSCE, October 13, 2011) - Continued

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**726-5**

14. Information from the Department of Water Resources ([www.water.ca.gov](http://www.water.ca.gov)) was used to evaluate impacts to levees and floodplains in the project area, based in personal correspondence with DWR staff involved in Central Valley flood management planning.

15. See MF-Response-WATER-3.

16. See MF-Response-WATER-3.

**726-6**

#17. California High Speed Rail Authority appreciates and shares the interest to facilitate strong connectivity with other transportation modes. The Authority recognizes that other High-Speed Rail projects are proposed and that future connections would help facilitate ease ridership connections, and the Authority will remain open to future discussions where these connection are reasonable. This EIR/EIS only addresses the specific Merced to Fresno and Fresno to Bakersfield Sections. In these locations the Authority has worked with the local jurisdictions to realize maximum connectivity with local transit centers.

#18. The Transportation Technical Report for the Merced to Fresno Section High-Speed Train Draft Project EIR/EIS includes information and maps regarding transit connections to the project, however, there are not foreseeable high speed rail connections possible in these sections.

Submission 638 (Henry te Velde, October 12, 2011)

RECEIVED

10-12-11P01:51 RCVD

September 30, 2011

Merced Fresno Draft EIR/EIS Comment  
California High Speed Rail Authority  
770 L Street  
Suite 800  
Sacramento CA 95814

Merced Fresno Draft EIR/EIS Comment:

I am a second generation family dairy farmer in Merced County. This letter is in response to the Environmental Impact Report regarding the High Speed Railroad between Merced and Fresno, specifically as it impacts Merced County APN's: 053-120-026-000, 053-120-024-000, 053-120-027-000, 067-030-015-000.

My daughter and son in law, Robert and Victoria Strickland are involved in our business as well as my grandson and his wife, Matt and Sarah Strickland. Matt and Sarah, the fourth generation, are partners in the dairy farm. They have four small children who we hope some day will be fifth generation family farmers. They live on the ranch and the proximity of the rails to their home would be a great danger to the children. This is unacceptable.

638-1

638-2

The current proposed route on APN 067-030-015-000 will totally disrupt our dairy operation because it bisects the dairy facility. There would be loss of corrals and barns to house the cows, and what would be left would be on both sides of the track and not enough for all the cattle. Furthermore, the milking barn would be unusable because the track route is too close to the barn. Our feed truck makes numerous trips per day hauling feed from the feed storage area to the cattle on both sides of the proposed track. The dairy waste lagoons would be reduced in capacity leaving smaller lagoons on both sides of the track. Numerous trucks enter and leave the dairy each day hauling feed and milk. The rail track would obliterate the access of these trucks.

The only solution to this would be to move the dairy facility to another property. It is improbable that this could be done in California because it is unlikely that a permit would be issued. If so, the time required would lengthy, and the cost very high. To retain our market with Foster Farms would require us to stay in the north counties. Moving out of state would also be difficult due to lengthy business plan studies, location plans, purchase, permits, markets etc. All this would need to be done before the railroad begins construction, because there is no way we can operate this dairy during HSP construction. Our estimated time needed to accomplish this would be at least four years.

638-3

If we relocate in another state, 20 jobs on our farm would be lost. Research has shown that for every "on farm" job in the dairy industry, there are 22 "beyond farm" jobs. Therefore, an additional 440 jobs would be lost in California if our farm relocates to another state.

638-4

The proposed route through the crop production land bisects the fields leaving a portion of them unfarmable. The irrigation and drainage system is disrupted and would require significant remodeling.

You should choose the route along highway 99 because it is the shortest. It makes no sense to add additional miles to the route by going through the Le Grand area. Your goal is high speed and additional miles just make the time of travel longer. Choosing routes that destroy farms is foolish.

We would be available for an onsite discussion of our site.

Sincerely,



Henry te Velde

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Response to Submission 638 (Henry te Velde, October 12, 2011)

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**638-1**

See MF-Response-S&S-5.

**638-2**

See MF-Response-AGRICULTURE-6 and MF-Response-GENERAL-4.

**638-3**

See MF-Response-GENERAL-4 and AGRICULTURE-6.

**638-4**

See MF-Response-AGRICULTURE-3, MF-Response-AGRICULTURE-4, and MF-Response-GENERAL-10.

Submission 180 (Pressy Teddy, September 14, 2011)

180-1

John

You asked us what we think,  
So I look at the map; why wouldn't  
I like to see it go through Le Grand  
Because the cost be higher, also on 2A  
the cost would be less.

You should talk to Don see what  
he said.

The rail isn't going to stop so  
go the other way, money and time.

Teddy & Pressy

PERRY ELLIS PORTFOLIO

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Response to Submission 180 (Pressy Teddy, September 14, 2011)

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**180-1**

See MF-Response-GENERAL-10.

Submission 194 (Ronald Tesone, September 14, 2011)

**HIGH SPEED RAIL COMMENT SHEET**

Please complete and mail this sheet to the following address:

Attention: Supervisor John Pedrozo  
County of Merced  
2222 M Street  
Merced, CA 95340

Board of Supervisors  
2222 M Street  
Merced, CA 95340

1  
231

NAME Ronald Tesone  
First Last

ADDRESS 2186 S. Plainsburg Rd, Le Grand, CA 95333  
Street Address Town/City Zip Code

MAILING ADDRESS \_\_\_\_\_  
 (IF DIFFERENT FROM ABOVE) Address Town/City Zip Code

TELEPHONE NUMBER (209) 389-4178

EMAIL ADDRESS \_\_\_\_\_

|||||  
DISTRICT 1 RESIDENT  
2186 PLAINSBURG RD  
LE GRAND CA 95333-9735

Please check here if you would like me to notify you via email or mail of upcoming High Speed Rail public hearings or meetings for the next 12 months.

Please check all that are applicable.

194-1

- I STRONGLY SUPPORT THE A-2 HIGH SPEED RAIL ROUTE ALTERNATIVE (UNION PACIFIC RAIL ROAD/HIGHWAY 99) AND AM AGAINST THE A-1 ROUTE ALTERNATIVE.
- I SUPPORT THE A-2 ROUTE BECAUSE IT'S CLOSEST TO A MAJOR TRANSPORTION CORRIDOR.
- I SUPPORT THE A-2 ROUTE BECAUSE IT WOULD LEAST IMPACT FARMLAND AND HABITAT AREAS.
- I AM AGAINST THE A-1 ROUTE BECAUSE IT MOST NEGATIVELY AFFECTS THE COMMUNITY I LIVE IN.

Please provide any additional reasons or comment as to why you support an A-2 route.

I sincerely hope that high-speed rail lives up to expectations.

Please note that your comments provided on this sheet will be forwarded to the California High Speed Rail Authority for their public comment records.

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## Response to Submission 194 (Ronald Tesone, September 14, 2011)

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**194-1**

See MF-Response-GENERAL-10. Also see Chapter 7 Preferred Alternative of the EIR/EIS which summarizes the relative differences between the alternatives and identifies the Hybrid Alternative as the preferred alternative for the Merced to Fresno Section.



Submission 168 (Steve Tinetti, September 14, 2011)

Comment Period Extended to  
October 13, 2011

El periodo a hacer comentarios  
está prolongado hasta del  
13 de octubre de 2011



**CALIFORNIA**  
**High-Speed Rail Authority**

**Comment Card**  
**Tarjeta de Comentarios**

**Merced to Fresno High-Speed Train Section** **Tren de Alta Velocidad Sección Merced a Fresno**  
Draft Environmental Impact Report/ Anteproyecto del Informe de Impacto  
Environmental Impact Statement (EIR/EIS) – Medioambiental/Declaración de Impacto  
**Public Hearings** **Medioambiental (EIR/EIS) - Audiencias Públicas**  
September 2011 Septiembre 2011

Please submit your completed comment card at the end of the meeting, or mail to: Por favor entregue su tarjeta al final de la reunión, o envíela a una de las siguientes direcciones:

**Merced to Fresno HST Environmental Review, 770 L Street, Suite 800, Sacramento, CA 95814**

The comment period on the Draft EIR/EIS begins August 15, 2011 and ends September 28, 2011. El periodo a hacer comentarios empieza a 15 de agosto y termina a 28 de septiembre. Comentarios received after 5:00 p.m. on **September 28, 2011** will not be addressed in the Final EIR/EIS. recibidos después de 5:00 p.m. a **28 de septiembre** no se responderá en el EIR/EIS final.

Name/ Nombre: STEVE TINETTI Organization/ Organización: \_\_\_\_\_  
 (Optional/Opcional) Address/Domicilio: 5162 WEST HIGGS AVE Phone Number/ Número de teléfono: (209) 354-3338  
 City, State, Zip code/ Ciudad, estado, código postal: \_\_\_\_\_ Email address/ Correo electrónico: STinetti@MercedRealEstate.com

- 168-1 (1) HAVE YOU CONSIDERED INCORPORATING SOLAR PANELS ALONG THE RIGHT OF WAY, PERHAPS YOU COULD SOL THE RIGHTS TO A SOLAR COMPANY
- 168-2 (2) HAVE YOU CONSIDERED PUTTING A LARGE NATURAL GAS LINE WITHIN THE RIGHT OF WAY (OR SECURING AN EASEMENT TO A PRIVATE COMPANY, P.E., SOUTHERN CALIFORNIA) SO THAT IT WOULD ENABLE DISTRIBUTION OF NATURAL GAS ALONG THE DD OVERUSE FOR VEHICLE'S POWER BY NATURAL GAS

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## Response to Submission 168 (Steve Tinetti, September 14, 2011)

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### **168-1**

The Authority policy is, to the extent that is reasonable and feasible, exclude access points for utilities from within access controlled right-of-way. This policy is intended to provide a safe environment for operation of HST, minimize the disruption to the traveling public, and assure safety of utility employees during maintenance of utility facilities. However, the Authority has issued a policy commitment to sustainability and maximum use of renewable energy resources. For more information on the Authority's commitment please see MF-Response-PUE-4. Design reviews will consider sustainability practices, so ideas such as solar panels on roofs may be a consideration.

### **168-2**

The Authority policy is, to the extent that is reasonable and feasible, exclude access points for utilities from within access controlled right-of-way. This policy is intended to provide a safe environment for operation of HST, minimize the disruption to the traveling public, and assure safety of utility employees during maintenance of utility facilities. However, the Authority has issued a policy commitment to sustainability and maximum use of renewable energy resources. Design reviews will consider sustainability practices, so ideas such as solar panels on roofs would be a consideration.

Submission 686 (Val Toppenberg, October 13, 2011)

**Merced - Fresno - RECORD #686 DETAIL**

**Status :** Action Pending  
**Record Date :** 10/13/2011  
**Response Requested :**  
**Stakeholder Type :** CA Resident  
**Submission Date :** 10/13/2011  
**Submission Method :** Website  
**First Name :** Val  
**Last Name :** Toppenberg  
**Professional Title :**  
**Business/Organization :**  
**Address :**  
**Apt./Suite No. :**  
**City :** Sacramento  
**State :** CA  
**Zip Code :** 95822  
**Telephone :** (916) 768-0860  
**Email :** vtoppy@gmail.com  
**Cell Phone :**  
**Email Subscription :** Merced - Fresno  
**Add to Mailing List :** Yes

686-1

**Stakeholder  
 Comments/Issues :**

Comments on the Merced-Fresno Draft EIR  
 1. The EIR shows that the cost of elevated track to designed for the alternative A-2 through Madera and Chowchilla adds \$2.5 Billion to the estimated cost, which is suspected to be under estimated.  
 2. The UPRR/99 (A-2) route would require dislocating a number of businesses and residences which would be very disruptive to those businesses and households, as well as the revenues and operations of the city governments during construction and rail operation. While the loss of tens of businesses and scores of homes may seem trivial on a statewide basis, the economy of scale at work in the rural area makes that loss significant.

3. Because of the elevated track required for the A-2 route, the HSR would have to rebuild interchanges over Highway 99 and raise the elevation in some cases more than twice their current height. The HSR does not need reconstruct of most of these interchanges with the A-1 alignment.

4. Maintenance of elevated rail ground facilities through the middle of Madera and Chowchilla in the A-2 alternative will be both expensive and disruptive to business and to the cities. The notion of parking fields and parks beneath the elevated structure is completely out of touch with the reality of rural communities.

5. It is not clear that the proposed plastic sound barriers for the elevated track will be either effective or attractive. Dust and particulate matter raised by rail operations will adhere to the sound walls in wet weather and will cause streaking stains on the sound walls. Such blighting elements of a public facility do little to minimize the visual disruption of the system to rural downtowns.

686-2

6. Track along the Avenue 24 route has the potential to displace existing viable industrial uses and employment centers in a part of California that has always struggled with high unemployment and low paying jobs.

7. The Avenue 24 route will cut off the only industrial zoned land in the City of Chowchilla from the balance of the City. This is an important economic development opportunity and one of the few opportunities for job development in the City.

8. The Avenue 24 route is another bifurcation of the City that Highway 99 already separates. The opportunities for a balanced community will be entirely lost and the community will continue to fragment.

686-3

9. Alternative A-1 with Avenue 21 Wye will have the least impact on rural communities (with the Mariposa Way and East of Le Grand option). The HSR will maintain the critical travel time between L.A. and San Francisco. The track will be mostly at grade and for the most part the HSR will save the cost of elevated track and interchange improvement.

**EIR/EIS Comment :**

Yes

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## Response to Submission 686 (Val Toppenberg, October 13, 2011)

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### **686-1**

See MF-Response-GENERAL-10 and MF-Response-GENERAL-14.

Mitigation measure N&V-MM#3, Implement Proposed California High-Speed Train Project Noise and Vibration Mitigation Guidelines, provides that prior to operation the Authority will work with communities regarding the height and design of sound barriers using jointly developed performance criteria. Mitigation measure VQ-MM#6 requires the provision of a range of options to reduce the visual impact of the sound barriers.

### **686-2**

See MF-Response-SOCIAL-1, MF-Response-SOCIAL-3 and MF-Response-SOCIAL-4.

### **686-3**

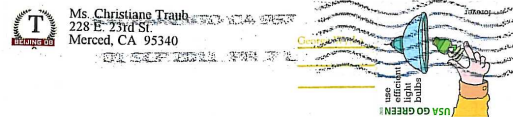
See MF-Response-GENERAL-10.

Submission 233 (Christiane Traub, September 2, 2011)

233-1

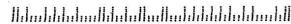
09-02-11P03:14 RCVD  
SEP 2 2011  
Re: Merced to Fresno EIR/EIS  
High speed rail proposal

I object to have Merced  
included in any form or  
matter concerning the High  
Speed Rail project. Christiane Traub



To:  
Merced to Fresno Draft EIR  
770 L Street, Ste. 200  
Sacramento, Ca 95814

PS 1985



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Response to Submission 233 (Christiane Traub, September 2, 2011)

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**233-1**

See MF-Response-GENERAL-14.



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## Response to Submission 195 (Robert Trost, September 14, 2011)

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**195-1**

See MF-Response-GENERAL-10. Also see Chapter 7 Preferred Alternative of the EIR/EIS which summarizes the relative differences between the alternatives and identifies the Hybrid Alternative as the preferred alternative for the Merced to Fresno Section.



Submission 617 (Darin Upton, October 13, 2011)

**Merced - Fresno - RECORD #617 DETAIL**

**Status :** Action Pending  
**Record Date :** 10/13/2011  
**Response Requested :**  
**Stakeholder Type :** CA Resident  
**Submission Date :** 10/13/2011  
**Submission Method :** Website  
**First Name :** Darin  
**Last Name :** Upton  
**Professional Title :**  
**Business/Organization :**  
**Address :**  
**Apt./Suite No. :**  
**City :** Chowchilla  
**State :** CA  
**Zip Code :** 93610  
**Telephone :**  
**Email :** SDUPTON@INREACH.COM  
**Cell Phone :**  
**Email Subscription :** Merced - Fresno  
**Add to Mailing List :** Yes  
**Stakeholder Comments/Issues :**  
**EIR/EIS Comment :** Yes

617-1  
617-2  
617-3  
617-4

For almost 2 years now, I and members of my family have been attending meetings, workshops, filling out comment cards, going to Sacramento, and other things just trying to be heard. Hopefully this comment and some of my families comments will finally be answered. We would have liked to be informed or at least involved about all routes that were considered. Apparently 2 years ago was too late to reconsider the HSR route along Interstate 5, which is a North to South route. Also I was never able to see or vote on the West to East route that went along Altamont Pass. Both of these routes follow existing corridors of transportation. The Refined Ave. 24 Wye connection does not follow existing corridors and directly impacts ag. land. It also impacts multiple water districts. The Refined Ave 24 Wye is also similar, or the exact same Wye that was used for the A3 route which was not carried forward for many reasons. Most of them because that route didn't follow anything that the California voters wanted the High-Speed Rail bond for. The Refined Ave. 24 Wye and the West Chowchilla Bypass Option should have never been on this Draft EIR/EIS for the Merced to Fresno section. I believe it was on June 17th 2010 in Merced, all public agencies that were present were opposed to a Wye connection North of Chowchilla. Then in July 2010 the Refined Ave. 24 Wye and the West Chowchilla Bypass Option is presented to us. Why? Most, if not all public agencies didn't want it? I don't think you guys are listening or don't care? Almost everyone I have talked to and met over the last 2 years feels the same way.

---

## Response to Submission 617 (Darin Upton, October 13, 2011)

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**617-1**

See MF-Response-GENERAL-7 and MF-Response-GENERAL-17.

In addition to providing local opportunities to share input with the Authority and FRA, Authority staff has contacted the commenter and provided the opportunity for additional discussions. Additional input will be accepted at the public hearing on the project.

**617-2**

See MF-Response-GENERAL-2.

**617-3**

See MF-Response-GENERAL-10 and MF-Response-GENERAL-16.

**617-4**

See MF-Response-GENERAL-10 and MF-Response-GENERAL-16.



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## Response to Submission 859 (Darin Upton, October 13, 2011)

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**859-1**

See MF-Response-GENERAL-17.

In addition to providing local opportunities to share input with the Authority and FRA, Authority staff has contacted the commenter and provided the opportunity for additional discussions. Additional input will be accepted at the public hearing on the project.

**859-2**

See MF-Response-GENERAL-2 and MF-Response-GENERAL-16.

Submission 151 (Kris A. Upton, August 25, 2011)

8-25-11  
Chowchilla, CA 93610

151-1

A) I believe that the HSR project should be stopped immediately for the following reasons:

- 1) There is not enough money, federal or state, to properly build the HSR.
- 2) The HSR has no sound business plan as required by law.
- 3) The HSR is not following existing transportation corridors as required by law.
- 4) The proposed HSR routes do massive damage to farm land instead of minimum impact to farmland as required by law.
- 5) The HSR's figures, such a projected rider ship, are inaccurate.
- 6) All independent studies of the CA HSR project conclude that the project is infeasible.
- 7) The HSR cannot be built without substantial increases of funds over original cost estimates.
- 8) The HSR project, in its current form, does not meet the requirements of what CA voters approved when they voted for HSR.
- 9) It is estimate that the HSR currently spends approximately \$1 million/day of tax payer's money just to sell the HSR project to the public.
- 10) It will be difficult for trains to maintain speeds in excess of 200 mph.
- 11) There are many other projects that can put people to work and make better use of this money such as building dams and fixing bridges and highways.
- 12) The CA Legislature's Budget Analyst has been highly critical of how this project has been managed.
- 13) If the HSR cannot be finished it has been suggested that the first segment could be used by Amtrak. Amtrak doesn't need another track in this location. It needs one from Bakersfield to LA so train passengers don't have to ride on buses to finish their journey.

151-2

B) If the CA HSR must be built I suggest first it be built to go from LA to SF traveling next to Interstate 5 for the following reasons:

- 1) There will be high rider ship.
- 2) It will follow an existing transportation corridor.
- 3) It will have minimum impact to farm land.
- 4) It will have the best chance to be a financial success.
- 5) It will be in accordance with what the CA voters voted for.
- 6) Trains will able to maintain speeds in excess of 200 mph.

151-3

C) If my first two suggestions are rejected I suggested that the Chowchilla Bypass Option (CBO) be taken off for the following reasons:

- 1) Most local agencies support a south of Chowchilla WYE.
- 2) The CBO would disrupt a 14 acre nature preserve that has been in existence for about 40 years.
- 3) The CBO does massive damages to existing farms and farming infrastructures such as water districts, canals, pipelines, PGE, etc.

W.R. KRIS A. UPTON  
8495 E. CROSS ROAD  
CHOWCHILLA, CA 93610-9374  
(352) 685-7404

---

## Response to Submission 151 (Kris A. Upton, August 25, 2011)

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**151-1**

See MF-Response-GENERAL-14, MF-Response-GENERAL-6, MF-Response-GENERAL-18, and MF-Response-GENERAL-13.

**151-2**

See MF-Response-GENERAL-2 under the subheading "I-5 Alignment."

**151-3**

See MF-Response-GENERAL-16.

Submission 230 (Kris A. Upton, September 22, 2011)

Dear John,

Aug 25, 2011

I've struggled with how to fill out the form that you sent to me as I can't really express my opinion in the way that I feel like I need to so I hope that you will accept this letter instead. I appreciate all the things that you have done for your constituents and I have heard a lot of good things about you from my brother Kole as I know that you two have had a lot of interactions with each other.

230-1

I know that we desperately need jobs, but this HSR project looks like it could prove disastrous for our state and nation. I struggle greatly with the problem that I don't really think the HSR should be built and I say so for the following reasons:

- 1) There is not enough money, federal or state, to properly build the HSR.
- 2) The HSR has no sound business plan as required by law.
- 3) The HSR is not following existing transportation corridors as required by law.
- 4) The proposed HSR routes do massive damage to farm land instead of minimum impact to farmland as required by law.
- 5) The HSR's figures, such a projected rider ship, are inaccurate.
- 6) All independent studies of the CA HSR project conclude that the project is infeasible.
- 7) The HSR cannot be built without substantial increases of funds over original cost estimates.
- 8) The HSR project, in its current form, does not meet the requirements of what CA voters approved when they voted for HSR.
- 9) It is estimate that the HSR currently spends approximately \$1 million/day of tax payer's money just to sell the current HSR proposed routes to the public.
- 10) It will be difficult for trains to maintain speeds in excess of 200 mph with the current proposed routes.
- 11) There are many other projects that can put people to work and make better use of this money such as building dams and fixing bridges and highways.
- 12) The CA Legislature's Budget Analyst has been highly critical of how this project has been managed.
- 13) If the HSR cannot be finished it has been suggested that the first segment could be used by Amtrak. Amtrak doesn't need another track in this location. It needs one from Bakersfield to LA so train passengers don't have to ride on buses to finish their journey.

230-2

However, if the CA HSR must be built I suggest first it be built to go from LA to SF traveling next to Interstate 5 for the following reasons:

- 1) There will be high rider ship.
- 2) It will follow an existing transportation corridor.
- 3) It will have minimum impact to farm land.
- 4) It will have the best chance to be a financial success.
- 5) It will be in accordance with what the CA voters voted for.

230-2

- 6) Trains will able to maintain speeds in excess of 200 mph.
- 7) People from our area can commute to work or temporarily move closer to the project while it is being built.

230-3

However, if it must be built in our area I would support the A-2 route as long as it does not include the Chowchilla Bypass Option (CBO). I think that the CBO should be removed from consideration for the following reasons:

- 1) Most local agencies support a south of Chowchilla WYE.
- 2) The CBO would disrupt a 14 acre nature preserve that has been cared for by my family for about 40 years. My brother Kurtis and I first talked my dad into setting aside some land just for nature and the whole family has worked together to preserve this refuge. It would be a shame to see this disturbed or destroyed as the CBO would do.
- 3) The CBO does much more massive damages to existing farms and farming infrastructures such as water districts, canals, pipelines, PGE, etc. than other WYE options.

Well, that's a long answer to a short, simple form. I appreciate you hearing me out.

Sincerely,

⸮⸮⸮⸮⸮  
Kris A. Upton  
8495 E. Cross Rd  
Chowchilla, CA 93610  
559-665-5404

---

## Response to Submission 230 (Kris A. Upton, September 22, 2011)

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**230-1**

See MF-Response-GENERAL-14, MF-Response-GENERAL-6, MF-Response-GENERAL-18, and MF-Response-GENERAL-13.

**230-2**

See MF-Response-GENERAL-2 under the subheading "I-5 Alignment."

**230-3**

See MF-Response-GENERAL-16.



Submission 231 (Kris A. Upton, September 14, 2011)

9-14-11

231-1

A) I believe that the HSR project should be stopped immediately for the following reasons:

- 1) There is not enough money, federal or state, to properly build the HSR.
- 2) The HSR has no sound business plan as required by law.
- 3) The HSR is not following existing transportation corridors as required by law.
- 4) The proposed HSR routes do massive damage to farm land instead of minimum impact to farmland as required by law.
- 5) The HSR's figures, such a projected rider ship, are inaccurate.
- 6) All independent studies of the CA HSR project conclude that the project is infeasible.
- 7) The HSR cannot be built without substantial increases of funds over original cost estimates.
- 8) The HSR project, in its current form, does not meet the requirements of what CA voters approved when they voted for HSR.
- 9) It is estimate that the HSR currently spends approximately \$1 million/day of tax payer's money just to sell the HSR project to the public.
- 10) It will be difficult for trains to maintain speeds in excess of 200 mph.
- 11) There are many other projects that can put people to work and make better use of this money such as building dams and fixing bridges and highways.
- 12) The CA Legislature's Budget Analyst has been highly critical of how this project has been managed.
- 13) If the HSR cannot be finished it has been suggested that the first segment could be used by Amtrak. Amtrak doesn't need another track in this location. It needs one from Bakersfield to LA so train passengers don't have to ride on buses to finish their journey.

231-4

TO: CHSRA,

Sep 14, 2011

One area that I have not seen addressed by the CHSRA is the impact the proposed rail lines will have on existing rural mail routes. Rural mail routes run throughout the entire state of California and are designed to deliver mail in the most cost effective manner. With HSR lines running throughout the state most rural mail routes will have to be redrawn. And, with the few overpasses and/or underpasses it will mean a lot more rural miles having to be traveled in order to deliver the mail.

For example, I run a rural mail route that is about 115 miles/day. If I make adjustments for the HSR (assuming it chooses an option that impacts my route) I could end up running many more additional miles just to deliver to the same customers. Instead of being able to follow my existing path I would often have to double back and go to an overpass then go back to that area that I was just delivering.

This would mean a great deal more money would have to be paid to me each just to deliver to the same customers. With the Post Office facing financial shortages of immense magnitudes any adjustments in the rural routes could be very hard to absorb.

Has the CHSRA looked into this or do they intend to do so? It would seem to be just one more of the legitimate concerns that should be addressed before any track is laid.

Sincerely,

*K A U*  
Kris A. Upton  
8495 E. Cross Rd  
Chowchilla, CA 93610  
559-665-5404

231-2

B) If the CA HSR must be built I suggest first it be built to go from LA to SF traveling next to Interstate 5 for the following reasons:

- 1) There will be high rider ship.
- 2) It will follow an existing transportation corridor.
- 3) It will have minimum impact to farm land.
- 4) It will have the best chance to be a financial success.
- 5) It will be in accordance with what the CA voters voted for.
- 6) Trains will able to maintain speeds in excess of 200 mph.
- 7) *FAK LESS COSTS FOR A LOW SINKS.*

*BY PEOPLE FROM FOREIGN COUNTRIES ANNOUNCED HOW NOT GOING DOWN I-5.*

231-3

C) If my first two suggestions are rejected I suggested that the Chowchilla Bypass Option (CBO) be taken off for the following reasons:

- 1) Most local agencies support a south of Chowchilla WYE.
- 2) The CBO would disrupt a 14 acre nature preserve that has been in existence for about 40 years.
- 3) The CBO does massive damages to existing farms and farming infrastructures such as water districts, canals, pipelines, PGE, etc.

*K A U*  
MR. KRIS A. UPTON  
8495 E. CROSS ROAD  
CHOWCHILLA, CA 93610-8374  
(559) 665-5404

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Response to Submission 231 (Kris A. Upton, September 14, 2011)

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**231-1**

See MF-Response-GENERAL-14, MF-Response-GENERAL-6, MF-Response-GENERAL-18, and MF-Response-GENERAL-13.

**231-2**

See MF-Response-GENERAL-2 under the subheading "I-5 Alignment."

**231-3**

See MF-Response-GENERAL-16.

**231-4**

See MF-Response-TRAFFIC-2.

Submission 201 (Pam Upton, September 14, 2011)

Comment Period Extended to  
October 13, 2011

El periodo a hacer comentarios  
está prolongado hasta del  
13 de octubre de 2011



**CALIFORNIA**  
**High-Speed Rail Authority**

**Comment Card**  
**Tarjeta de Comentarios**

**Merced to Fresno High-Speed Train Section**  
Draft Environmental Impact Report/  
Environmental Impact Statement (EIR/EIS) –  
**Public Hearings**  
September 2011

**Tren de Alta Velocidad Sección Merced a Fresno**  
Anteproyecto del Informe de Impacto  
Medioambiental/Declaración de Impacto  
Medioambiental (EIR/EIS) - **Audiencias Públicas**  
Septiembre 2011

Please submit your completed comment card at the  
end of the meeting, or mail to:

Por favor entregue su tarjeta al final de la reunión, o  
envíela a una de las siguientes direcciones:

**Merced to Fresno HST Environmental Review, 770 L Street, Suite 800, Sacramento, CA 95814**

The comment period on the Draft EIR/EIS begins August 15, 2011 and ends September 28, 2011. Comments received after 5:00 p.m. on September 28, 2011 will not be addressed in the Final EIR/EIS. El periodo a hacer comentarios empieza a 15 de agosto y termina a 28 de septiembre. Comentarios recibidos después de 5:00 p.m. a 28 de septiembre no se responderá en el EIR/EIS final.

Name/  
Nombre: Pam Upton

Organization/  
Organización:

(Optional/Opcional)  
Address/Domicilio: 8495 E Cross Rd

Phone Number/  
Número de teléfono: 559 665 5404

City, State, Zip code/  
Ciudad, estado, código postal:  
Chowchilla, CA 93610

Email address/  
Correo electrónico:

201-1

Again, I am writing against the high speed rail leaving established transportation routes. This rail is not what Californians voted for. Going through Ag land harms agriculture + the people that live + work there.

201-2

I've filled out comments over + over at these meetings + it seems as if it doesn't really matter what I say.

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Response to Submission 201 (Pam Upton, September 14, 2011)

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**201-1**

See MF-Response-GENERAL-2 and MF-Response-GENERAL-14.

**201-2**

See MF-Response-GENERAL-17.

Submission 687 (Stephanie Upton, October 13, 2011)

Merced - Fresno - RECORD #687 DETAIL

Status : Action Pending  
Record Date : 10/13/2011  
Response Requested :  
Stakeholder Type : CA Resident  
Submission Date : 10/13/2011  
Submission Method : Website  
First Name : Stephanie  
Last Name : Upton  
Professional Title :  
Business/Organization :  
Address :  
Apt./Suite No. :  
City : Chowchilla  
State : CA  
Zip Code : 93610  
Telephone :  
Email : littlesteph24@yahoo.com  
Cell Phone :  
Email Subscription : Merced - Fresno, San Jose - Merced  
Add to Mailing List : Yes  
Stakeholder Comments/Issues : Please follow your own guidelines and follow existing corridors . Please do not impact Ag. or farm land. My husband's family has been providing food and Ag. products for over 60 years. The West Chowchilla Bypass Option and the Revised Ave. 24 Wye connection do not follow many, if any? Of your guidelines or the guidelines that the tax payers of California voted for.  
EIR/EIS Comment : Yes

687-1

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Response to Submission 687 (Stephanie Upton, October 13, 2011)

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**687-1**

See MF-Response-GENERAL-2.

Submission 1089 (Juan Urena, August 23, 2011)

1089-1

JUAN M URENA  
17654 Rd 27 Parcel #  
MADERA CA 93638 036-140-028

AUG 23 2011

I think the Santa Fe R.R. is a better route you save money lots of it I have 32.44 acres of your service more or less we can talk about the consideration lets make a deal there is lots of potential here. 8-18-11

P.S. my phone is 559-975-5071

Yours Juan M Urena

P.S. why go where they don't want you.  
At Madera city & Chowchilla city

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Response to Submission 1089 (Juan Urena, August 23, 2011)

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**1089-1**

See MF-Response-GENERAL-10.