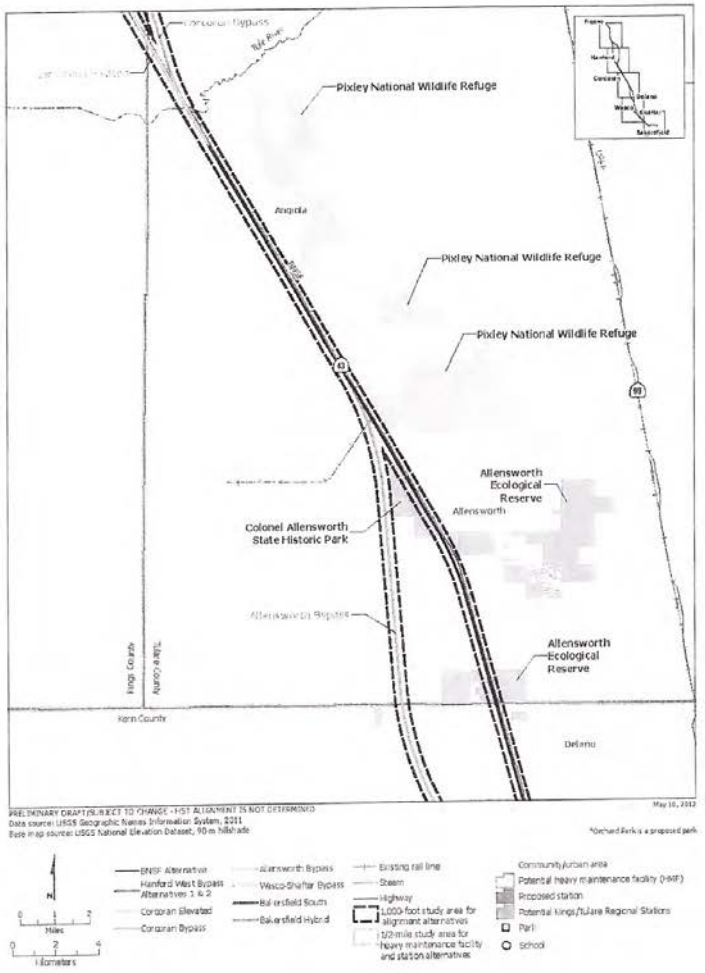
Attachment to Submission BO029 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 18, 2012) - 554 Wittwer-Parkin Letter 10182012_Attachments.pdf - Continued



ATTACHMENT 6

Attachment to Submission BO029 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 18, 2012) - 554 Wittwer-Parkin Letter 10182012_Attachments.pdf - Continued

State of California ~ Department of Justice

OFFICE of the ATTORNEY GENERAL

KAMALA D. HARRIS

Brown Sues to Block Tulare County Dairy Construction

Thursday, April 19, 2007
Contact: (415) 703-5837

Attorney General Edmund G. Brown Jr. sued the Tulare County Board of Supervisors on Thursday to overturn the board's approval of two mega-dairies housing more than 12,000 cattle near Allensworth State Park, a nationally registered historic site honoring a pioneering black settlement founded by a former slave.

The California Department of Justice lawsuit alleges the Tulare County Board of Supervisors on March 20 violated the California Environmental Quality Act when it approved the cow pens located about a mile away from the historic site. The suit says the dairy will produce 20 tons of manure and other contaminants each day.

"Allensworth State Park will be compromised by the odors, flies and air and water pollution generated by these large dairies in such close proximity,' the Tulare County Superior Court lawsuit said. 'By bringing a large industrial dairy operation into the immediate surroundings of the park, the dairy project threatens the park's historic integrity and its function to convey a historically accurate picture of the way of life of the Allensworth pioneers.'

The park preserves a town founded by Allen Allensworth, which was an agricultural haven for former slaves and sharecroppers in the Central Valley of California. Allensworth, a slave born in 1842, served in the U.S. military during the Civil War and was the first African American to receive the rank of Lieutenant-Colonel.

The lawsuit claims the Tulare County Board of Supervisors violated California environmental regulations for, among other things, approving the project 'without meaningfully evaluating and identifying the impact on the unique historical resources and setting of Allensworth State Park.'

The suit also alleges that the Tulare County Board of Supervisors did not adequately address the project's environmental impacts on the adjacent Pixley National Wildlife Refuge and the Allensworth Ecological Reserve.

A copy of the lawsuit is attached.

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2007-04-19_finalpet.pdf	1.03 MB
2007-04-19_RobertSargentShriverLetter.pdf	366.74 KB

ROBERT SARGENT SHRIVER III

April 19, 2007

Mr. Edmund G. Brown Jr.
Attorney General of the State of California
Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, California 94244-2550

Re: Colonel Allensworth State Historic Park

Dear Mr. Attorney General:

I am writing to express my concern regarding the potential impacts on Colonel Allensworth State Historic Park (Allensworth Park) by the proposed dairies recently approved by the Tulare County Board of Supervisors.

Allensworth Park preserves a town founded by Colonel Allen Allensworth, a former slave, as an agricultural haven for other former slaves and sharecroppers in the Central Valley. Created in the 1970's, Allensworth Park receives thousands of visitors annually. Because of the historic importance of Allensworth Park to the people of the State of California, the California Department of Parks and Recreation has invested several million dollars to preserve and restore 21 historic buildings that provide visitors with an accurate picture of life in Allensworth at the turn of the 20th century. Allensworth Park is used for recreation and has camping facilities, and several festivals are held there each year.

I have reviewed information about the proposed dairies and I am very concerned about their potential impacts on Allensworth Park. It is my understanding that Tulare County has approved the sitting of two dairies that will hold, in confined quarters, over 12,000 animals on about 320 acres. The rest of the site will be used for spreading manure and manure wastewater. A two-lane road separates the site from the Allensworth settlement, a federally-listed National Register Historic District. The dairy animals and manure will be housed barely a mile away from the core of the historic site. The flies, odor and air and water pollution as well as the potential health and scenic impacts created by the presence of 12,000 plus cows at the edge of Allensworth Park would threaten the quality of the visitor-experience and the historical integrity of this irreplaceable state resource.

9201 WILSHIRE BOULEVARD · SUITE 107 · BEVERLY HILLS · CALIFORNIA · 90210
TELEPHONE: (310) 385-0599 FACSIMILE: (310) 385-0598

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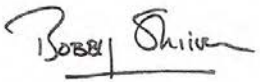
Re: Colonel Allensworth State Historic Park
Page 2

I serve as Chair of the State Park and Recreation Commission to help protect our state parks from this type of danger. I am very concerned about the continued viability of Colonel Allensworth State Historic Park if these dairies are built as proposed. However, I am writing only as a private citizen. The Commission has not taken a position on this question. As a private citizen, I hope you study appropriate legal actions to ensure the future viability of the Park.

Sincerely,



Bobby Shriver

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF TULARE

THE PEOPLE OF THE STATE OF CALIFORNIA, ex rel. ATTORNEY GENERAL EDMUND G. BROWN JR., Petitioners, v. COUNTY OF TULARE, TULARE COUNTY BOARD OF SUPERVISORS Respondents. SAM ETCHEGARAY, ETCHEGARAY DAIRIES, Real Parties in Interest.	Case No.: **PETITION FOR WRIT OF MANDATE** **(California Environmental Quality Act, Pub. Resources Code, §§ 21168, 21168.5; Code of Civ. Proc. §§ 1085, 1094.5)**

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INTRODUCTION

1. Petitioners, the People of the State of California, ex rel. Attorney General Edmund G. Brown Jr. ("the People"), bring this action challenging the approval by Respondents County of Tulare ("Tulare County") and its Board of Supervisors ("Board") of the Etchegaray Dairies ("Dairy Project"), two industrial mega-dairies with over 12,000 cows housed within close proximity to the Allensworth State Historic Park, a nationally registered historic site honoring a pioneering Black settlement founded by a former slave. On March 20, 2007, the Board approved the Dairy Project in violation of the California Environmental Quality Act ("CEQA"; Pub. Resources Code, § 21000 *et seq.*) Respondents failed to fully evaluate impacts to Allensworth State Park and other state resources, failed to consider and adopt appropriate mitigation, and failed to consider reasonable, less environmentally harmful, alternatives.

2. Allensworth State Park is the only park of its kind in California, and has national historical significance as a federally-listed as a National Register Historic District. Created in the 1970's, the park preserves a town founded by Colonel Allen Allensworth as an agricultural haven for other former slaves and sharecroppers in the Central Valley. Born a slave in 1842, Colonel Allensworth served in the U.S. military during the Civil War, and was the first African-American to receive the rank of Lieutenant-Colonel in the service. After the war, Colonel Allensworth came to the Central Valley to create a community focused on achieving social, cultural, political and economic self-sufficiency for its Black inhabitants. Today, the Allensworth State Park serves as an inspiration to people of all races, and particularly to the African-American community, as an exemplar of Black accomplishment and triumph over racial and economic discrimination.

3. The People of the State of California own – and through the California Department of Parks and Recreation ("Parks Department") manage – the Allensworth State Park, and have invested several million dollars to preserve and restore 21 historic buildings in the settlement in order to provide visitors with an accurate portrayal of the

life of these courageous Black pioneers at the turn of the 20th century. Although it is located in a remote location in the southwest corner of Tulare County, the park receives thousands of visitors each year, is the site of several historical festivals, sponsors day use recreation and camping facilities, and hosts busloads of schoolchildren encountering this important piece of California history for the first time.

4. Respondents approved the siting of two industrial mega-dairies on a parcel directly across a rural highway from the park. Over 12,000 dairy cows and support stock will be kept in confined quarters only a mile from the core of the historic district, generating over 20 tons of manure and 10,000 gallons of manure water daily. The waste manure and water will be spread on the project site on land next to the park. The enjoyment and experience of visitors to Allensworth State Park will be compromised by the odors, flies and air and water pollution generated by these large dairies in such close proximity. By bringing a large industrial dairy operation into the immediate surroundings of the park, the Dairy Project threatens the park's historic integrity and its function to convey an historically accurate picture of the way of life of the Allensworth pioneers.

5. The Allensworth State Park, and the adjacent Dairy Project, are both situated in between the federal Pixley National Wildlife Refuge and the state-owned Allensworth Ecological Reserve. Numerous state and federally listed threatened, endangered, rare, and special-status species are known to occur in the vicinity of the park and the proposed project. The park and its surroundings, including the project site, serve as an important wildlife habit connection between these two natural areas; this function is threatened by the construction, operation and waste discharges of the two dairies.

6. CEQA requires that a public agency undertaking a project with the potential to harm the environment must prepare an environmental impact report ("EIR") that uncovers, analyzes, and fully discloses the reasonably forseeable effects on the environment of the project, and adopts all feasible measures available to mitigate those effects. Here, even though the Dairy Project is adjacent to an important state park and

Attachment to Submission BO029 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 18, 2012) - 554 Wittwer-Parkin Letter 10182012_Attachments.pdf - Continued

ecological reserve, Respondents approved the Final Environmental Impact Report ("FEIR") for the Dairy Project without meaningfully evaluating and identifying the impacts on the unique historical resources and setting of Allensworth State Park, on the specific visitor uses and experience of the park, on the habitats and viability of various endangered and threatened species present in the adjacent state and federal wildlife refuge and ecological reserve, and on the already degraded air and water quality of the area. Because it fails to analyze and sufficiently describe the impacts of the project, the FEIR concomitantly fails to present and adopt feasible mitigation for each of the impacts as required by CEQA. In addition, the FEIR fails to properly analyze alternatives to the proposed Dairy Project, including more compatible alternative locations for the dairies.

7. This is an action for injunctive relief under CEQA against the Respondents. The People seek a writ of mandate to set aside Respondents' approval of the certification of the FEIR and the Dairy Project, and a court order to provide environmental review and mitigation in compliance with CEQA.

PARTIES

8. Attorney General Edmund G. Brown Jr. is the chief law officer of the State of California. He has broad independent powers under the California Constitution and the California Government Code to participate in all legal matters in which the State is interested, which include protecting California's environment and its natural resources. (Cal. Const., art. V, § 13; Gov. Code, § 12511.) The California Legislature has given the Attorney General a unique role to participate in actions concerning pollution and adverse environmental effects which could affect the public or the natural resources of the State. (Gov. Code, §§ 12600-12612.) Government Code section 12600 specifically provides: "It is in the public interest to provide the people of the State of California through the Attorney General with adequate remedy to protect the natural resources of the State of California from pollution, impairment, or destruction." Petitioner People of State of California, ex rel. Attorney General Edmund G. Brown Jr., files this Petition for Writ of Mandate pursuant to the Attorney General's independent power and duty to protect the

natural resources of the State from pollution, impairment, or destruction in furtherance of the public interest. The natural and historical resources contained within this area of Tulare County are an important component of the heritage of the People of this State and, as a state park and ecological reserve, have been specifically set aside under state law for protection. (Pub. Resource Code, § 5019.53 ("[t]he purpose of state parks shall be to preserve outstanding natural, scenic, and cultural values, indigenous aquatic and terrestrial fauna and flora, and the most significant examples of ecological regions of California".)

9. Respondent County of Tulare is duly organized and existing under the laws of the State of California, is a "public agency" and the "lead agency" for the Project, as those terms are used in CEQA and the CEQA guidelines. The CEQA guidelines, found at California Code of Regulations, title 14, section 15000, *et seq.*, are regulations interpreting and implementing CEQA; they are binding on all state and local agencies, and are binding on Respondents. (Cal. Code Regs., title 14, § 15000.)

10. Respondent Board of Supervisors of Tulare County ("Board") is the governing body of Tulare County and is responsible for approval of land use and development projects within the County's jurisdiction, and is responsible for complying with state and federal law when approving the Dairy Project. The Board is sued in its official capacity only.

11. Real Parties in Interest are Sam Etchegaray, an individual, identified in the Tulare County resolution of approval of the project as the project owner; and Etchegaray Dairies, identified in the Tulare County resolution of approval as the project applicant.

VENUE AND JURISDICTION

12. Pursuant to Public Resources Code sections 21168 and 21168.5 and Code of Civil Procedure sections 1085 and 1094.5, this Court has jurisdiction to hear this matter.

13. Venue is appropriate in this judicial district as the violations of CEQA and the principal environmental impacts alleged herein occurred in Tulare County.

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STATEMENT OF FACTS

14. The Dairies Project includes the development of two new dairies on one parcel in southwestern Tulare County: the Earlimart Ranch Dairy to be located on 160 acres in the northeast corner of the parcel, to house 5,715 animals (milk cows plus support stock); and, the Phillips Ranch Dairy to be located on 160 acres approximately one mile to the west, to house 6,535 milk cows and support stock. The rest of the 2,692-acre parcel will remain in agricultural production, and will be used to dispose of liquid and solid manure wastes from the dairies.

15. The project site lies directly east of State Highway 43; the community of Allensworth and the Allensworth State Park lie on the other side of the highway. The two areas where the 12,000 animals will be confined are located just barely outside a one-mile "windshed" boundary surrounding Allensworth, the minimum distance allowed between a new dairy and an existing community under Tulare County's Animal Confinement Facilities Plan policies.

16. The buffer zone was adopted arbitrarily, based solely on the past practice of the County to use a one-mile community "windshed" during "the last 25 years" as the "appropriate separation" to avoid potential conflicts between dairies and communities. (ACFP/DPEIR, Response to Comments, pp. 29-30.) Similarly, the County has arbitrarily adopted a minimum 1,000 feet buffer zone around public parks. (*Id.*) The administrative record for the Dairy Projects contains no evidence or analysis of the actual odor impacts that would be reasonably expected from confining 12,000 plus cows just one-mile away from Allensworth State Park, or from the spreading of waste manure and manure water from the Dairy Project on the parts of the parcel next to the park.

17. The People of the State of California have considerable interest and investment in Allensworth State Park, which is visited by thousands of people each year for day use recreational and educational purposes and for camping. The proposed Dairy Project directly impacts this unique state park. The prospect of two industrial dairy operations, with attendant flies, odors and air pollution, on a parcel next to the park

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Petition for Writ of Mandate

threatens the historical integrity of Allensworth Park and the protection of the People's investment in this important component of the state park system.

18. Other state resources are threatened by the Dairy Project. The operation and proposed waste disposal associated with the dairies presents threats to the quality of surface and ground waters at and adjacent to the site, and the riparian, wetland, and upland habitats adjacent to and within the project site, including in both the Pixly National Wildlife Refuge located to the north of the project and the California Department of Fish and Game's Allensworth Ecological Reserve located to the south and east. In addition, the Dairy Project will add at least 155 tons per year of reactive organic gases, 30 tons per year of nitrogen oxides, .13 tons of particulate emissions, 2540 tons of methane, and nearly 600 tons of ammonia to an air quality basin already seriously out of compliance with many state and federal air quality standards.

19. Tulare County prepared and circulated, on March 20, 2006, a draft EIR for the Dairy Project. Public hearings were conducted on the EIR and project by the Tulare County Planning Commission on May 17, June 14, July 26, and August 9, of 2006.

20. The Parks Department presented comments on the draft EIR during the public comment period. The Parks Department's comments reflected concerns about the failure of the draft EIS to analyze and identify the impacts of the project on the unique historic resources and visitor experience of Allensworth State Park, and the failure to consider a sufficient range of alternatives, as well as the deficiencies in proposed mitigation. On June 13, 2006, the California Department of Fish and Game also submitted written comments expressing concerns with the adequacy of the biological survey conducted for the EIR, and the threats to protected species and habitat and degradation of ground and surface water quality posed by the project. Numerous other parties commented on the inadequacy of the draft EIR, and testified in opposition to the Dairy Project. All of these comments were made prior to the close of the public hearing on the project before the issuance of the Notice of Determination and are part of the administrative record connected with the approval of the Dairy Project.

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Petition for Writ of Mandate

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21. On or about July of 2006, Tulare County released the FEIR, consisting of the draft EIR, the comments on the draft, and the responses to those comments. Numerous comments were submitted on the FEIR, including but not limited to a September 7, 2006 letter from the Department of Fish and Game stating that the impacts to water quality and protected species and habitat had still not been adequately addressed. Subsequent responses to additional comments were issued by Respondents in August 2006 and September 2006. All of these comments were made prior to the close of the public hearing on the project before the issuance of the Notice of Determination and are part of the administrative record.

22. At a public hearing on September 13, 2006, the Planning Commission declined to either approve or deny the Dairy Project, and instead took no action on the project, referring it to the Board for further action. The project applicant filed an appeal of the Planning Commission's failure to act on the application. The Board of Supervisors held public hearings on the project and FEIR on October 24, 2006 and December 5, 2006, and took final action to approve the Dairy Project and FEIR on March 20, 2007.

23. The FEIR fails to identify and analyze potential adverse impacts on Allensworth State Park. In particular, the FEIR fails to consider the special significance of the unique historical resources at the park, as required under CEQA whenever a project may materially alter a historic resource or its immediate surroundings. Despite Allensworth's historical significance and the importance of maintaining the integrity of its surroundings in order to preserve its historical significance, the FEIR contains no description of the specific public uses of the facilities and buildings at the park. Instead, it states only that the buildings are largely "unoccupied." The FEIR fails to even make mention of the national historical significance of the park. Instead of a detailed examination of the air and water emissions from locating 12,000 cows and disposing of their waste on property adjacent to the park and how those emissions will effect the visitor experience and the historic character of the park, the FEIR contains only a

conclusion, unsupported by any factual evidence, that because the animals will be confined greater than 1000 feet away from the park, and because the dairies are technically outside the one-mile community "windshed" boundary, no odor, fly or air pollution impacts will occur. Reliance on an arbitrary buffer zone does not constitute legally adequate analysis under CEQA.

24. The FEIR fails to adequately address whether any cultural resources associated with the Allensworth State Park exist on the project site or in the vicinity.

25. Failure to identify impacts to Allensworth State Park results in a concomitant failure to identify feasible mitigation measures to avoid or minimize any effects that may be significant.

26. In its role as a Trustee Agency under CEQA, the California Department of Fish and Game identified critical biological resources near the project site that could be effected by the Dairy Project, and in particular by wastewater runoff from the project site. Yet, the FEIR fails to properly recognize or analyze those impacts. Accordingly, in approving the FEIR and the Dairy Project, Tulare County also has failed to adopt adequate mitigation measures to reduce the significant impacts on the wildlife habitat and candidate, special-status and sensitive species and other biological resources that occur in the vicinity of the proposed project site.

27. The FEIR improperly concludes that the Etchegaray Dairies will have no significant impact on water quality. In doing so, the FEIR fails to properly consider relevant evidence in the record indicating that there are permeable soils in the area, and that if levees for wastewater retention ponds should fail, groundwater may be contaminated. The FEIR also fails to properly consider the history of flooding in the area, that adjacent wildlife refuges have been impacted by dairy runoff in the past, and that the project site is located in an area with very shallow groundwater. The FEIR uses outdated assumptions regarding nitrogen and salt excretions applicable to discharges from dairy wastewater, and as a result, the project fails to provide sufficient land to ensure disposal of wastewater in a manner that will not degrade water quality. Tulare

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County fails to adopt, and improperly defers to the State Water Resources Control Board for adoption of, reasonable mitigation measures to minimize these impacts.

28. The FEIR fails to adequately analyze the effects of air emissions from the Dairy Project on local and regional air quality, or on regional efforts to meet federal air quality standards required to be met under applicable federal law. Instead of disclosure and analysis regarding whether expected air emissions from the projects will result in significant impacts on air quality and human health, the FEIR improperly substitutes improper conclusory findings of significance. For examples, the FEIR fails to include any modeling or other projections of the effects on air quality of the expected emission of reactive organic gases from the project; fails to include any estimation of nitrogen oxide emissions on local and regional air quality; fails to consider any impacts from formation of secondary particulates from the interaction of ammonia emissions with nitrogen oxides and other pollutants; fails to properly assess expected air quality effects of small size particulate emissions; fails to provide any bases for evaluating the relative contribution of ammonia emissions from the project in relation to regional pollutant loads; fails to provide any meaningful analysis of the emissions of methane, a greenhouse gas; fails to calculate hydrogen sulfide emissions or effects; and fails to perform a meaningful cumulative impacts analysis of the project's emissions to basin-wide pollution levels. Further, the mitigation measures proposed to reduce air quality impacts are vague, unenforceable, and of limited efficacy. The FEIR improperly fails to require feasible mitigation measures, such as purchase of air pollution offsets, or to consider other feasible mitigation measures, such as particulate trap technology or use of alternative fuels for diesel farm vehicles.

29. The FEIR fails to identify and analyze reasonable alternatives to the Dairy Project, or to the location of the project. The FEIR considers only two alternatives in addition to the no-project alternative: a dairy with the same size herd on a different, larger parcel; and a reduced herd size. The FEIR concludes, based on an improper reliance on economic considerations, that these alternatives are not feasible. More

significantly, the FEIR fails to consider other reasonable alternatives such as locating a similar sized dairy on a parcel further away from Allensworth State Park and the Allensworth Ecological Reserve. In particular, the FEIR fails consider siting the dairies on alternative parcels owned by the project applicant.

30. Despite the deficiencies in the FEIR set forth above, on March 20, 2007, Respondents certified the FEIR and approved the Dairy Project.

31. The Notice of Determination announcing Tulare County's decision was filed with the Tulare County Clerk on March 27, 2007.

32. The certification of the FEIR was accompanied by the approval of a Statement of Overriding Considerations, even though Respondents had not described all environmental impacts of the project, nor considered all feasible mitigation for those impacts or alternatives to the project, in the FEIR.

33. Unless restrained by the Court, Respondents will proceed with the Dairy Project without complying with the requirements of CEQA. If construction proceeds without compliance with this law, the People will suffer great and irreparable harm. The People have no plain, adequate and speedy remedy at law.

34. Section 21177 of the Public Resources Code requiring exhaustion of administrative remedies is not applicable to the Attorney General.

35. This petition is excused from verification pursuant to subdivision (a) of section 446 of the Code of Civil Procedure.

36. The People have complied with the requirements of Publi5c Resources Code section 21167.5. A copy of the written notice provided to Tulare County and a proof of service, as required by that provision, is attached as Exhibit "A" to this petition.

STATUTORY AND REGULATORY REQUIREMENTS

37. CEQA requires the preparation of an EIR in order to identify the significant effects on the environment of a project, so that measures to mitigate or avoid those effects, or alternatives that avoid those effects, can be devised. (Pub. Resources Code, §§ 21002.1(a), 21060.) Compliance with the procedural requirements of CEQA to

Attachment to Submission BO029 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 18, 2012) - 554 Wittwer-Parkin Letter 10182012_Attachments.pdf - Continued

conduct an adequate analysis of environmental impacts sets the stage for development of mitigation measures and alternatives. Without this proper procedural foundation, a local agency cannot comply with CEQA's mandate that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects. (Pub. Resources Code, § 21002.)

38. CEQA's fundamental goals are to foster informed decision making and to fully inform the public about the project and its impacts. (Cal. Code Regs., title 14, § 15003.)

39. An environmental impact report must provide public agencies and the public in general with detailed information about the effect that a project is likely to have on the environment, to list ways in which the significant effects of a project might be minimized, and to indicate alternatives to such a project. (Pub. Resources Code, § 21061.) California Code of Regulations, title 14, section 15126.2, requires that the FEIR identify the significant environmental impacts of the project, including direct and indirect impacts. California Code of Regulations, title 14, section 15126.4, requires that the FEIR describe all feasible measures that can minimize significant adverse impacts of the project. CEQA does not allow an agency to defer analysis of impacts and mitigation measures to another agency which may subsequently approve an aspect of the project. (Cal. Code Regs., title 14, § 15126.4, subd. (a)(1)(B).)

40. In conducting a CEQA analysis of potential impacts on a historical site, a public agency is specifically required to consider whether the project will result in substantial adverse changes, including "alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired." (Cal.Code Regs., title 14, § 15064.5, subd. (b)(1).)

41. California Code of Regulations, title 14, section 15126.6, requires that the FEIR describe a range of reasonable alternatives to the project or its location, which would feasiblely attain most of the basic objectives of the project, but would avoid or

substantially lessen any of the significant impacts of the project. Comparative merits of the alternatives should be evaluated.

FIRST CAUSE OF ACTION

(Pub. Resources Code, §§ 21168, 21168.5; Respondents' Failure to Adequately Analyze Impacts of the Project on Allensworth State Park.)

42. The allegations of paragraphs 1 through 41 are incorporated into this cause of action by reference as though set forth fully herein.

43. Respondents violated section 15126.2 of title 14 of the California Code of Regulations, in that the FEIR does not adequately identify all significant environmental impacts of the Project. In particular, Respondents failed to consider the adverse impacts to a registered historial resource, as required by subdivision (b)(1) of section 15064.5 of title 14 of the California Code of Regulations. Defects in the FEIR include, but are not limited to, the following:

a. The FEIR does not adequately describe the impacts of odor, flies and dust from the Dairy Project on the historical resources at, and the historical integrity of, Allensworth State Park.

b. The FEIR does not adequately describe the impacts of the Dairy Project on the visitor experience and specific public uses of the facilities and buildings at the park.

44. Respondents' actions in approving the FEIR and the Dairy Project, without adequately analyzing all significant environmental impacts of the Project, are arbitrary and capricious, without evidentiary support, a prejudicial abuse of discretion and are not in accordance with law.

SECOND CAUSE OF ACTION

(Pub. Resources Code, §§ 21168, 21168.5; Respondents' Failure to Adequately Analyze Impacts of the Project on Other State Resources.)

45. The allegations of paragraphs 1 through 44 are incorporated into this cause of action by reference as though set forth fully herein.

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46. Respondents violated section 15126.2 of title 14 of the California Code of Regulations, in that the FEIR does not adequately identify all significant environmental impacts of the Project. Defects in the FEIR include, but are not limited to, the following:

a. The FEIR does not adequately describe and analyze the impacts of the Dairy Project on the biological resources at and around the Allensworth Ecological Reserve and the Pixly National Wildlife Refuge.

b. The FEIR does not adequately describe and analyze the impacts of the Dairy Project on degradation of ground water and surface water at and around the project site.

c. The FEIR does not adequate describe and analyze the air quality impacts of the Dairy Project.

47. Respondents' actions in approving the FEIR and the Dairy Project, without adequately analyzing all significant environmental impacts of the Project, are arbitrary and capricious, without evidentiary support, a prejudicial abuse of discretion and are not in accordance with law.

THIRD CAUSE OF ACTION

(Pub. Resources Code, §§ 21168, 21168.5; Respondents' Failure to Adequately Describe All Feasible Mitigation Measures for Impacts of the Project.)

48. The allegations of paragraphs 1 through 47 are incorporated into this cause of action by reference as though set forth fully herein.

49. Respondents violated section 15126.4 of title 14 of the California Code of Regulations in that the FEIR does not adequately describe all feasible measures that can minimize significant adverse impacts of the Dairy Project, including, but not limited to, the following defects:

a. The FEIR does not adequately address how the impacts to the historical integrity, the visitor experience and the public use of the facilities and buildings at Allensworth State Park will be mitigated.

b. The SEIR does not adequately describe all feasible mitigation measures to address the significant air and water quality impacts associated with the project.

c. The SEIR does not adequately describe all feasible mitigation measures for the impacts to the biological resources and wildlife habitat contained in and around the Allensworth Ecological Reserve and the Pixly National Wildlife Refuge.

50. Respondents have failed to adopt mitigation measures that are specific, enforceable, and efficacious.

51. Respondents' actions in approving the FEIR and the Dairy Project, without adequately analyzing all feasible mitigation for all significant environmental impacts of the Project, and deferring this discussion for later processes, are arbitrary and capricious, without evidentiary support, a prejudicial abuse of discretion and are not in accordance with law.

FOURTH CAUSE OF ACTION

(Pub. Resources Code, §§ 21168, 21168.5; Respondents' Failure to Adequately Analyze All Reasonable Alternatives.)

52. The allegations of paragraphs 1 through 51 are incorporated into this cause of action by reference as though set forth fully herein.

53. Respondents violated section 15126.6 of title 14 of the California Code of Regulations in that, despite significant impacts of the Project to Allensworth State Park, the FEIR does not adequately discuss alternatives that would avoid these impacts to the state park, such as siting the dairies on an alternative parcel owned by the project applicant, or on an alternative parcel of the same or similar size. The FEIR's flawed analysis of two alternatives – a reduced herd size or siting a dairy with the same size herd on a different but larger parcel – does not constitute an adequate analysis of the comparative merits of a reasonable alternatives, as required by CEQA.

Attachment to Submission BO029 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 18, 2012) - 554 Wittwer-Parkin Letter 10182012_Attachments.pdf - Continued

54. Respondents' actions in approving the SEIR and the Project, without adequately analyzing all reasonable alternatives that would lessen its impacts, are arbitrary and capricious, without evidentiary support, a prejudicial abuse of discretion, and are not in accordance with law.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request the following relief:

1. A peremptory writ of mandate commanding that:
   a. Respondents vacate and set aside its approval of the FEIR for the Dairy Project, the approval of mitigation measures for the Dairy Project, the approval of a Mitigation Reporting or Monitoring Plan for the Dairy Project, the approval of a Statement of Overriding Considerations for the Dairy Project, the Findings for the Dairy Project, and the approval of the Dairy Project;
   b. Respondents withdraw the Notice of Determination thereof;
   c. Respondents prepare and circulate a revised fEIR for public review and comment that is in compliance with the requirements of CEQA; and
   d. Respondents suspend all activity pursuant to the certification of the FEIR and its approval of the Project that could result in any change or alteration to the physical environment until Respondents have taken all actions necessary to comply with CEQA.
2. Preliminary and permanent injunctions restraining Respondents, their agents, employees, contractors, consultants and all person acting in concert with it, from undertaking any construction or development, issuing any approvals or permits, or taking any other action to implement in any way the approval of the Dairy Project without full compliance with California law;
3. A declaration of the rights and duties of the parties hereto, including but not limited to a declaratory judgment that prior to permitting any grading, construction,

or development of any kind on the Dairy Project site, Respondents must prepare, circulate, and adopt a revised FEIR in accordance with the requirements of CEQA;

4. Petitioners' cost of suit; and
5. Such other relief as the Court deems just and proper.

Dated: April 19, 2007

Respectfully Submitted,

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Submission BO030 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 18, 2012)

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Gary A. Patton

October 17, 2012

Fresno to Bakersfield Revised Draft EIR/Supplemental Draft EIS Comment
770 L Street, Suite 800
Sacramento, CA 95814

Dan Richard, Chair
Board of Directors
California High-Speed Rail Authority

RE: Revised Draft EIR/Supplemental Draft EIS Comment – Fresno to Bakersfield

Dear California High-Speed Rail Authority:

This letter submits comments from Provost & Pritchard Consulting Group, prepared at the request of Citizens For California High-Speed Rail Accountability (CCHSRA). Please respond to these comments, which outline fundamental flaws in the Revised Draft EIR/Supplemental Draft EIS for the Fresno to Bakersfield Section of the proposed California high-speed train system (RDEIR/SDEIS). A response to these comments is required by both CEQA and NEPA. Based on these comments, and on the other comments made by, and on behalf of, CCHSRA, the Authority should revise and recirculate the RDEIR/SDEIS.

Thank you for your attention to these comments.

Yours truly,

Wittwer & Parkin, LLP
By: Gary A. Patton, Of Counsel

BO030-1

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MEMORANDUM

To: Gary A. Patton, Of Counsel
Wittwer & Parkin, LLP

From: Will Washburn, PE

Subject: California HST Project Revised DEIR/Supplemental DEIS
Fresno To Bakersfield Section

Date: October 17, 2012

At your request on behalf of the Citizens for California High Speed Rail Accountability, Provost & Pritchard has reviewed the Revised DEIR/Supplemental DEIS that was released by the California High Speed Rail Authority on July 18, 2012 for the Fresno to Bakersfield Section. Specifically, we have reviewed and commented on the following portions of the document:

- Sections 3.2, 3.7, 3.14, and 3.19, for impact analysis and adequacy of mitigation.

The following is a list, by section of our comments, for your use.

Page 3.2-6, Baseline Operational Analysis
The DEIR presents a discussion of how the baseline year for traffic analysis was selected, and states that analysis is provided both for existing conditions (presumably 2010) and for 2035.

Selection of a Baseline Year
CEQA requires that project impacts be measured against a current baseline (defined to be a date between the issuance of the NOP and the certification of the EIR.) While the DEIR claims to be in compliance with the 2010 case *Sunnyvale West Neighborhood Assn. v. City of Sunnyvale (2010) 190 Cal.App.4th 1351*, in fact that case specifically invalidated Sunnyvale's EIR for using a future baseline date rather than the CEQA-mandated Notice of Preparation date.

The DEIR defends its decision to evaluate necessary mitigation based on the 2035 theoretical completion date of the project as *"more appropriate."* Again, the Court in *Sunnyvale* opined that it could not uphold the use of the future baseline *"since that approach contravenes CEQA regardless whether the agency's choice of methodology for projecting those future conditions is supported by substantial evidence."* Simply, CEQA's requirements are clear, and cannot be circumvented by the lead agency just because doing so might seem to make sense.

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Submission BO030 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 18, 2012) - Continued

BO030-1

Selection of 2035 as the baseline for evaluation of traffic impacts violates CEQA and renders the DEIR inadequate. The traffic analysis must be prepared using a current base year and the DEIR recirculated.

BO030-2

Project Impacts versus Cumulative Impacts
The DEIR further states in this section that "*Mitigation for both baseline scenarios is not required, of course (mitigation for only one is required).*" This is not correct.

CEQA requires two traffic analyses. First, the project impacts must be compared with the current-year baseline conditions. Impacts found from this analysis are considered project-related and must be mitigated to the extent feasible by the project. Second, the project impacts must be compared with the horizon-year background projections. Impacts found through this analysis are generally considered to be cumulative impacts and must be considered in the Cumulative Impacts sections of the EIR.

The DEIR has chosen to report only the second analysis, and is therefore deficient. While the analysis versus the future year may be technically correct, the conclusions are presented improperly as project impacts when they are in fact cumulative impacts. While the DEIR gives lip service to the current-year-plus-project analysis, it does not mitigate for those project impacts as required under CEQA.

BO030-3

Page 3.2-7, Operational/Project Impacts, Vehicle Trip Generation at the Stations
The DEIR treats the stations and their specific trip generation as though they were typical commercial businesses, with trips distributed around the clock and typical AM and PM peak hours of 15% of the total daily volume each. No evidence is provided to back up this distribution analysis.

Train stations are unlike other commercial businesses in that traffic in and out of the stations is concentrated around the arrival and departure times of the trains. The DEIR provides no information as to the proposed operational schedule of the HSR. The trip generation of each station will be dependent upon the number of trains per day and the arrival/departure schedule. Will the train schedule cause peak demands at the stations that coincide with the AM and PM peak hours on the existing road systems? If there are only one or two trains per day in the early years, won't the peak hour generation for the station greatly exceed 15% of the daily total?

The DEIR leaves major gaps in the information it provides to readers, because of the gaps in the assumptions it makes about the actual operations of the stations in each of the three proposed locations (Fresno, Hanford, Bakersfield.) Without such analysis, neither the public nor the agencies responsible for the surrounding road systems can be correctly informed of the project's potential impacts, rendering the DEIR deficient.

BO030-4

Page 3.2-8, Operational/Project Impacts, Vehicle Trip Generation at the Heavy Maintenance Facilities
The DEIR assumes a commercial-development trip distribution for the HMFs, which are not commercial facilities at all but rather employment centers. Trip distribution will be

BO030-4

focused around change-of-shift. The DEIR states that the HMFs will employ 1,500 people and will operate 24/7 with three shifts, which implies 3,000 daily change-of-shift trips plus whatever other traffic the facility generates. However, the DEIR states the total trip generation will be 3,000 per day, and that trip distribution for the HMF at the peak hours will be only 300 vph.

Using the DEIR's numbers, there will presumably be 500 employees arriving and 500 departing at each shift change. Absent any evidence of an effective ride-sharing program, the reader may reasonably assume a peak of nearly 1,000 vph occurring three times per day.

BO030-5

The DEIR also fully neglects the impact of any other vehicles arriving at or leaving the HMF, including supply trucks, service vehicles and others. The reader has no way of guessing the volume nor the truck percentage of this additional traffic, but can reasonably conclude it should be greater than zero and should therefore be considered in the analysis.

Because of the understatement of peak hour trips, the analysis of the HMF's impact on the surrounding road system is understated by a factor of 70 percent. In addition the analysis is understated by an unknown amount due to ignoring trips other than employees at shift change. For these reasons the DEIR is therefore deficient.

This analysis must be redone to correctly assess significant impacts, and the EIR recirculated.

BO030-6

Page 3.2-8, CEQA Significance Criteria, Operational Phase
The DEIR states that the significance criteria for road segment impacts is a drop in the segment's level of service to LOS D. This may be appropriate for segments within some of the municipalities along the route including Fresno, but both the County of Fresno and the City of Bakersfield require segments and intersections on their road systems to be mitigated to LOS C.

Any segments or intersections (signalized or unsignalized) within Fresno County and the City of Bakersfield which are impacted by the Project to an LOS of D or below must be mitigated to LOS C.

The DEIR is deficient in that it fails to correctly mitigate such segment and intersection impacts in accordance with adopted significance criteria.

BO030-7

Page 3.2-10, Regional Transportation System, Air Travel
The DEIR states with respect to Fresno-Yosemite International Airport (FAT) that "*With respect to the proposed HST service, the airport began providing commercial passenger flights as of July 2010 to Sacramento, Los Angeles, and San Diego.*" We are not sure what is meant by this, but in any case FAT has been continuously providing commercial air service to a wide range of destinations for well over 50 years.

Submission BO030 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 18, 2012) - Continued

BO030-7

Current direct destinations are in no way limited to the three given in the DEIR, but include San Francisco, Portland, Salt Lake City, Denver, Dallas, Phoenix, Las Vegas, and Honolulu.

The DEIR fails to discuss the commercial airports proximate to the proposed route in Visalia and Bakersfield, and fails to discuss other general aviation airports along the route including Sierra Sky Park in Fresno.

The DEIR should be revised to correct this information.

BO030-8

Page 3.2-16, Fresno Station Area
The DEIR states that the "Fresno Station Area" (FSA) was defined for the purposes of traffic analysis as a 16-square-block sub-region of downtown bounded by Merced Street, Santa Clara Street, G Street, and H street. While the list of existing segments and intersections chosen for analysis surrounding the FSA is extensive, including some 41 segments and 104 intersections), there is no evidence provided that the list exhaustively includes all segments and intersections that will be affected at or above the thresholds of significance set forth on page 3.2-9. This information must be added to a revised DEIR.

BO030-9

Figures 3.2-5 through 3.2-8, Fresno Station Area
While each of these figures illustrate some aspect of the road and highway system around downtown Fresno, none actually show the location of the Fresno Station Area that is being analyzed. In order to provide adequate information to the reader, the Fresno Station area, and the selected specific location for the Fresno Station, must be shown on each figure.

BO030-10

Figures 3.2-9 through 3.2-12, Kings/Tulare Station Area
While each of these figures illustrate some aspect of the road and highway system around the station area as loosely described in the DEIR text, none actually show the location of the Kings/Tulare Station Area that is being analyzed. In order to provide adequate information to the reader, the Kings/Tulare Station area, and the selected specific location for the Kings/Tulare Station, must be shown on each figure.

BO030-11

Figures 3.2-13 through 3.2-16, Bakersfield Station Area
While each of these figures illustrate some aspect of the road and highway system around the station area as loosely described in the DEIR text, none actually show the location of the Bakersfield Station Area that is being analyzed. In order to provide adequate information to the reader, the the DEIR must be revised to show the Bakersfield Station area, and the selected specific location for the Bakersfield Station, on each figure.

BO030-12

Page 3.2-39, Environmental Consequences, Aviation Element
The DEIR states again in this section that Fresno-Yosemite International Airport serves only San Francisco and Los Angeles. As discussed above under **Regional Transportation System, Air Travel**, this is incomplete, misleading and inaccurate information and must be corrected.

BO030-13

Page 3.2-39, Environmental Consequences, Aviation Element
This section also states that the Project will have a negative impact on use of both Fresno and Bakersfield airports, stating that the 2006 Fresno Yosemite International Airport Master Plan's (AMP) forecasted 852,000 annual emplanements by 2025 could be reduced by as many as 300,000 passengers per year, a reduction of over 35%. The DEIR fails to consider the environmental impacts of this massive impact to an existing facility, and is therefore deficient. Such an impact must be analyzed and mitigated in every feasible way, requiring that the DEIR be revised and recirculated.

BO030-14

Additionally, such a negative impact will have dramatic economic consequences to, among others, the City of Fresno Airports Division, commercial air carriers, rental car agencies, local FBOs and vendors operating in the terminal. NEPA requires that these impacts be considered as part of the EIS. This is a major failing and must be corrected, requiring that the DEIR be revised and recirculated.

BO030-15

Page 3.2-40, Environmental Consequences, Conventional Passenger Rail
This section discusses the existing Amtrak service in the project area, but completely fails to note any anticipated impacts to ridership and Amtrak revenues that will obviously result should the HST be constructed. NEPA requires that these impacts be considered as part of the EIS. This is a major failing and must be corrected in a revised DEIR.

BO030-16

Page 3.2-41, Environmental Consequences, Freight Rail Element
This section discusses the local freight rail situation, finding it to be operating near capacity and noting that the two operators, Union Pacific and Burlington Northern, have a history of adding capacity when warranted to support growth in business over time. The DEIR then completely fails to be curious about or to analyze what effect the project would have on these likely foreseeable improvements to the existing rail lines. Should the Project interfere with the ability of the two freight rails to grow, it would be a substantial economic impact on the region, limiting access to a mode of transportation the DEIR states carries 11 percent of freight at the current time. This omission must be addressed, and any impacts mitigated, in a revised and recirculated DEIR.

Submission BO030 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 18, 2012) - Continued

BO030-17

Page 3.2-48, Project Impacts, Regional Transportation System
This section states that all alternative versions of the project would negatively impact interstate commercial air trips. Since the HST is intrastate only, this seems a surprising conclusion and further explanation of both the impact and the potential mitigation is warranted. We are left to wonder how a train that provides service from Fresno, Visalia and Bakersfield to LA and San Francisco would affect, for example, service from FYI to Denver, Salt lake City or Dallas.

If the DEIR is meant to say "intrastate" rather than "interstate," the impact is more understandable. However, the section continues on to say this decrease in commercial flights would be a beneficial impact. Clearly, the operators of the airlines would have a differing view as the economic consequences to them could be considerable. NEPA requires consideration of and mitigation for economic impacts; that issue must be addressed here. The DEIR in its current form is deficient.

BO030-18

Page 3.2-48, Project Impacts, Regional Change to the Aviation System
This Section states that the HST would draw 16 passengers per day from Meadow Field in Bakersfield, taking the train where they would otherwise have flow. Is this a significant impact? No analysis is given and no mitigation is offered. As above, the negative economic consequences of the project must be discussed pursuant to NEPA requirements. Not enough information is provided here for the reader to understand the level or severity of the anticipated impact.

Similarly the Section states that "one flight is predicted to divert from the Fresno-Madera area Airport." Which airport in the Fresno-Madera area is meant? There are several. What does it mean for a "flight" to "divert"? Is this a commercial flight, with passengers? No analysis is given and no mitigation is offered. As above, the negative economic consequences of the project must be discussed pursuant to NEPA requirements. Not enough information is provided here for the reader to understand the level or severity of the anticipated impact.

BO030-19

Page 3.2-48, Project Impacts, Changes in Conventional Passenger Rail Service
This Section states that Central Valley Amtrak service "may" be converted to a feeder system for the HST. "May" is a very ambiguous term. Does the project envision such a conversion or not? In either case, what are the anticipated impacts (to the HST, to Amtrak, to the regional transportation system) and what mitigations are offered? Who will decide the fate of Amtrak? The Rail Authority is not in charge of Amtrak at all. It is puzzling why the EIR would attempt to speak on behalf of an independent and separate organization, and a much greater level of discussion is warranted in the document itself.

This one-paragraph section is a wholly inadequate analysis of a non-specific speculation and must be completely fleshed out before analysis and mitigation of the project and its alternatives can be considered complete.

BO030-20

Page 3.2-48, Project Impacts, Changes in Intercity Bus Service

BO030-20

As with the preceding section, this Section speculates as to how independent bus companies may react to a completed Project, but then it makes the excuse that since the answer is known, no analysis or mitigation are warranted. Such an approach is contradictory to CEQA. The DEIR should analyze the most likely alternatives. For example, what happens if the bus companies choose to compete head-on with the HST? What happens if the bus companies are successful in collaborating with the Rail Authority to create a feeder system? The impacts of these two alternatives are broadly and widely disparate on issues from air quality to economics (both for the bus companies and the HST) to traffic. A single-paragraph dismissal of an issue of this magnitude in a project-level EIR is a serious deficiency and must be corrected.

BO030-21

Page 3.2-49, Project Impacts, Altering Freight Rail Corridors
This section states that since the HST corridors don't encroach on current freight rail corridors, there is no project impact. However, as noted above, the freight rail carriers have a history of expanding capacity as demand requires and the current facilities are nearing maximum capacity. It could be reasonably concluded that the freight carriers will, prior to completion of the project, be pursuing capacity expansion.

How will the proposed corridors constrain the freight carrier's expansion plans? This issue should be fully addressed for the length of the proposed corridor over the various alternative alignments, and a full range of mitigations offered to correct this substantial deficiency in the DEIR.

BO030-22

Page 3-2.51, Environmental Consequences, BNSF Alignment Alternative, Road Closures
This page lists 37 local roads in the City of Fresno, City of Bakersfield and counties of Fresno, Kings Tulare and Kern to be closed, and states "There *may be potential impacts* associated with property access as a result of these closures depending on the availability of alternative access routes. Because of potential property access issues, the road closure impacts are considered to be moderate under NEPA and significant impact under CEQA because local residents and commuters would experience worsening transportation service level due to the need for new access routes or increased travel times and congestion from redirected traffic to adjacent roadways." (Emphasis added.)

The DEIR is intended to be a Project EIR. Stating that 37 road closures "may" cause significant impacts , and failing to identify them specifically or to provide mitigation for any of those presumed impacts is not sufficient for project-level analysis. The DEIR does not mention whether traffic analysis assuming the closures was carried out. Such analysis would be required, and the results of the analysis must be made part of the DEIR along with mitigation measures necessary to maintain the affected agencies' required levels of service. The DEIR is accordingly deficient.

Submission BO030 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 18, 2012) - Continued

BO030-23

Page 3-2.52, Environmental Consequences, Corcoran Elevated Alignment Alternative, Road Closures
The DEIR state that there "may" be significant impacts under CEQA associated with property access as a result of the closure of the Santa Fe Avenue off-ramp from SR 43 in Corcoran, depending on the availability of alternative access routes.

Failure to identify and mitigate these impacts is not sufficient for project-level analysis. The DEIR does not mention whether traffic analysis assuming the closures was carried out. Such analysis would be required, and the results of the analysis must be made part of the DEIR along with mitigation measures necessary to maintain the affected agencies' required levels of service. The DEIR is accordingly deficient.

BO030-24

Page 3-2.52, Environmental Consequences, Corcoran Bypass Alignment Alternative, Road Closures
This page lists 8 local roads in the City of Corcoran to be closed, and states "There *may be potential impacts* associated with property access as a result of these closures depending on the availability of alternative access routes. Because of potential property access issues, the road closure impacts are considered to be moderate under NEPA and significant impact under CEQA because local residents and commuters would experience worsening transportation service level due to the need for new access routes or increased travel times and congestion from redirected traffic to adjacent roadways." (Emphasis added.)

Failure to identify and mitigate these impacts is not sufficient for project-level analysis. The DEIR does not mention whether traffic analysis assuming the closures was carried out. Such analysis would be required, and the results of the analysis must be made part of the DEIR along with mitigation measures necessary to maintain the affected agencies' required levels of service. The DEIR is accordingly deficient.

BO030-25

Page 3-2.52, Environmental Consequences, Allensworth Bypass Alignment Alternative, Road Closures
This page lists 2 local roads in the Allensworth area to be closed, and states "There *may be potential impacts* associated with property access as a result of these closures depending on the availability of alternative access routes. Because of potential property access issues, the road closure impacts are considered to be moderate under NEPA and significant impact under CEQA because local residents and commuters would experience worsening transportation service level due to the need for new access routes or increased travel times and congestion from redirected traffic to adjacent roadways." (Emphasis added.)

Failure to identify and mitigate these impacts is not sufficient for project-level analysis and the DEIR is accordingly deficient.

BO030-26

Page 3-2.53, Environmental Consequences, Wasco-Shafter Bypass Alignment Alternative, Road Closures
This page lists 16 local roads in the Wasco-Shafter area to be closed (in addition to those listed in the BNSF Alternative), and states "There *may be potential impacts* associated with property access as a result of these closures depending on the availability of alternative access routes. Because of potential property access issues, the road closure impacts are considered to be moderate under NEPA and significant impact under CEQA because local residents and commuters would experience worsening transportation service level due to the need for new access routes or increased travel times and congestion from redirected traffic to adjacent roadways." (Emphasis added.)

Failure to identify and mitigate these impacts is not sufficient for project-level analysis and the DEIR is accordingly deficient.

BO030-27

Page 3-2.54, Environmental Consequences, Bakersfield South Alignment Alternative, Road Closures
This page lists four local roads in the City of Bakersfield to be closed, and states "There *may be potential impacts* associated with property access as a result of these closures depending on the availability of alternative access routes. Because of potential property access issues, the road closure impacts are considered to be moderate under NEPA and significant impact under CEQA because local residents and commuters would experience worsening transportation service level due to the need for new access routes or increased travel times and congestion from redirected traffic to adjacent roadways." (Emphasis added.)

Failure to identify and mitigate these impacts is not sufficient for project-level analysis and the DEIR is accordingly deficient.

BO030-28

Page 3.2-54, Impacts on the Local Roadway Network due to Station Activity – All HST Alternatives, Fresno Station
In this section, the DEIR states in part:

"Two station locations in Fresno were studied:
- Fresno Station – Mariposa Alternative: Centered on Mariposa Street, bordered by Fresno, Tulare, H, and G Streets.
- Fresno Station – Kern Alternative: Centered on Kern Street, between Tulare and Inyo Streets."

The first bulleted location lies outside of the "Fresno Station Area" defined in the DEIR at page 3.2-16. The second bulleted location is described by three parallel streets with no cross-street, so its actual location is indeterminate.

Neither case provides accurate, specific information to the reader. Either the Fresno Station Area is improperly defined above, or the bulleted location is wrong. Since the DEIR fails to provide an illustration of the station area or the specific station locations,

Submission BO030 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 18, 2012) - Continued

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it's not possible for the reader to resolve the inconsistency. This must be corrected in a revised DEIR.

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Page 3.2-54, Impacts on the Local Roadway Network due to Station Activity – All HST Alternatives, Fresno Station
This section of the DEIR describes the traffic analysis performed for the Fresno Station, and repeats that "For roadways and intersections, scenarios are evaluated and compared for Existing Conditions, Future No Project (year 2035), and Future with Project (year 2035)."

As discussed above regarding page 3.2-6, Baseline Operational Analysis, evaluation of project impacts using a baseline other than the current year violates CEQA as clarified by the Court in the recent *Sunnyvale* case. The traffic analysis must be repeated using a baseline that conforms with CEQA requirements, significant impacts must be clearly identified, and effective mitigations proposed. The DEIR is deficient in this area.

BO030-30

Page 3.2-55, Impacts on the Local Roadway Network due to Station Activity – All HST Alternatives, Fresno Station Roadway Segment Impacts
Due to the failure of the DEIR to use a CEQA-legal baseline for its traffic impact analysis, this section will have to be redone using the correct baseline (i.e., the date of the Notice of Preparation as specified in *Sunnyvale*.) Once a correct TIS is available, this section must also be expanded to include explanation of the significant impacts segment by segment and intersection by intersection. That analysis will then form the basis for proposing and evaluating specific, effective and feasible mitigation measures, which must be proposed as part of a revised DEIR.

The subject of mitigation measures is addressed more fully below, but the necessary changes to those sections will rely on a revised CEQA-compliant analysis in this section, among others.

BO030-31

Page 3.2-62, Impacts on the Local Roadway Network due to Station Activity – All HST Alternatives, Fresno Station Parking Impacts
This section evaluates existing parking conditions and finds that there is today "a large amount of excess public parking within 1 mile of the alternative Fresno station sites." No metrics are given to define what existing parking may be "necessary today," "necessary by project completion," or anything else. No evidence is given as to the number of total parking spaces currently available within the 1-mile radius given, or how spaces were determined to be "excess."

BO030-32

The DEIR then goes on to propose addressing project parking requirements using two faulty methods. First, the DEIR suggests that the Project rely on using 100% of the currently-available "excess" parking to meet project needs. This does not account for the growing need for parking from the on-going City of Fresno Downtown Redevelopment efforts, and would in fact cripple those projects by taking away an already-funded source of scarce parking spaces. Rather, the DEIR fails to find that

BO030-32

using all the parking currently available to the City and other future users amounts to a significant impact requiring mitigation. In fact, the burden under CQEA is for this project to identify its impacts and provide mitigation so that others are not burdened by the project. The DEIR completely fails to meet that burden here.

BO030-33

Second, the DEIR makes the unsupported assumption that it will be feasible for HST riders to park up to a mile from the station. This distance is unreasonable for the project's circumstances, and that leads to a substantial under-mitigation of the actual project impact.

Standard planning practice is that people may be willing to walk up to one-half mile to access a resource such as a community park. However, the likelihood is that many HST riders will be travelling either on business or for pleasure and therefore will be burdened with luggage. This suggests that the actual feasible walking radius for parking is much less than even one-half mile. Whatever the correct distance is, the DEIR offers no evidence as to how the one-mile radius was selected or why people would be willing to walk such a distance to the HST station.

The analogy to airport parking should be clear. All major airports provide a variety of ways to accommodate passenger departures. Aside from drop-offs at the door of the air terminal, expansive parking (both short- and long-term) is typically provided. When walking distances exceed several hundred yards, shuttle bus service is common. No commercial air terminal built in the last fifty years relies on overflow public parking for 100 percent of its parking capacity. To suggest that such a practice is acceptable for the Fresno HST station is ridiculous. The DEIR must be revised to provide evidence and analysis to show that the project correctly projects its parking needs and provides the required number of spaces, and then must explain how people will be moved between the parking and the station in reasonable fashion.

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Page 3.2-62, Impacts on the Local Roadway Network due to Station Activity – All HST Alternatives, Fresno Station Parking Impacts – Required Number of Spaces
This section states that at buildout, the Fresno Station will require 7,400 parking spaces. While not mentioned in this section, the DEIR states on page 3.2-65 that the Kings/Tulare station will require 1,600 parking spaces at buildout and on page 3.2-68 that the Bakersfield Station will require 2,368 spaces.

However, in Table 3.2-5 of the DEIR, the Fresno Station is predicted to generate a maximum of 4,370 vehicle trips per day, while the Kings/Tulare Station will generate 2,300 vehicles per day and the Bakersfield Station is predicted to generate a maximum of 4,590 vehicle trips per day. It is left to the reader to discern why the Fresno station might need 1.69 parking spaces per vehicle trip and Kings/Tulare needs 1.43, while Bakersfield can get by with 0.52 spaces per vehicle trip – nearly 70% fewer than Fresno.

No evidentiary support is provided for the number of parking places assertedly required at any of the stations, so there is no way to resolve the issue from the information in the DEIR. Is the Project going to have greatly excessive parking in Fresno and

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Kings/Tulare? Is the parking in Bakersfield inadequate? Or is there another reason for the disparity left unstated?

As written, the DEIR fails to provide a project-level analysis of this subject, and must be revised.

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Page 3.2-65, Impacts on the Local Roadway Network due to Station Activity – All HST Alternatives, Kings/Tulare Station Parking Impacts
The DEIR states in this section that "For the purpose of this analysis, it was assumed that the station parking areas would accommodate approximately 1,600 vehicles at the Kings/Tulare Station." There is no evidence that 1,600 spaces actually will be provided. In fact, later in the section the DEIR states "Reducing the number of spaces provided at the station area would allow for more open space areas around the station, discourage growth at the station, encourage revitalization of the downtowns, and reduce the development footprint of the station." This leaves the reader without any firm idea of the project's actual proposal. Further, there is no evidence presented as to why 1,600 spaces are required. Lastly, if indeed 1,600 spaces are needed, the statement that reducing the number of provided spaces around the station area would somehow provide benefits must be explained and justified.

The DEIR must answer several questions about parking at this (and the other) stations.

- How many spaces are required per anticipated rider, or per anticipated vehicle trip per day?
- How many spaces are actually being proposed by the project?
- Where are the proposed spaces located?
- Will the proposed spaces be effective in meeting parking demand?
- If the project is proposing fewer spaces than projections indicate will be necessary, what will be the attendant impacts on adjacent properties and businesses?
- How will these impacts be measured and mitigated?

The DEIR fails to pose or answer any of these questions and is therefore deficient.

Page 3.2-70, Impacts on the Local Roadway Network due to Station Activity – All HST Alternatives, Table 3.2-23, Existing Plus Project, Intersection Operating Conditions, Bakersfield Stations
The footnote to this table reveals that the City of Bakersfield has adopted a standard of LOS C for its intersections and roadway segments. The DEIR lists 10 intersections that would be impacted to LOS D by either of the project's proposed alignments through Bakersfield

- Mt. Vernon Avenue/E. Brundage Lane (#8),
- P Street/California Avenue (#22),
- Union Avenue/Hayden Court (#29),
- Chester Avenue/Truxtun Avenue (#33),
- Q Street/Truxtun Avenue (#36),

- Mt. Vernon Avenue/Niles Street (#55),
- Union Ave/W. Niles Street (#57),
- Union Avenue/34th Street/Bernard Street (#63),
- Chester Avenue/W. Columbus Street (#64), and
- L Street/California Street (#67)).

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As discussed above under CEQA Significance Criteria, the impacts at each of these 10 intersections must be identified as Significant under CEQA, and the project must provide effective mitigation to reduce the impacts to a level of less than significance. The DEIR fails to identify these significant impacts and does not provide mitigation for any of the 10 intersections. It is therefore deficient.

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Page 3.2-75, Impacts on the Local Roadway Network due to Station Activity – All HST Alternatives, Bakersfield Freight Impacts
The discussion under this section refers to the Fresno Station, and correctly describes operations at that location. No discussion is provided regarding freight rail impacts in Bakersfield. It is not clear if this is a simple typographical error or if the wrong description appears here. This should be corrected in a revised DEIR.

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Page 3.2-80, Table 3.2-27
This table claims to show Existing Plus Project traffic analysis for several project intersections affected by Heavy Maintenance Facility operations, although the text on page 3.2-75 states that the background is the 2035 traffic conditions. Existing Plus Project would be current traffic conditions plus the project, as CEQA requires in the analysis of project impacts. The analysis shown should be considered in the Cumulative Impacts section.

Three intersections are identified in this table as being impacted by the Project. No specific mitigation measures are proposed and no analysis is made of the effectiveness of any mitigation.

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Page 3.2-82, Section 3.2.6, Mitigation Measures
This section starts by restating 10 proposed mitigation measures that were apparently discussed in the earlier program EIR. The document states "(d)uring project design and construction, the Authority and FRA would implement measures to reduce impacts on transportation." That laughably simplistic statement seems to be the sum total of the approach to mitigating over 75 pages of identified impacts, and is wholly inadequate under both CEQA and NEPA.

The DEIR fails to indicate where or how any of the 10 identified mitigation measures would be implemented. The DEIR also fails to identify whether any of the measures are actually feasible for the locations and/or municipalities where they might be proposed, and it fails to evaluate the effectiveness of any of the measures. Nothing about these 10 measures rises to the bar set by CEQA or NEPA for mitigation of significant impacts.

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CEQA requires that proposed mitigation measures be specific to the actual impacts identified, that the mitigation measures be feasible, and that adequate analysis must be performed to show that the proposed mitigation measures are effective and reduce the identified impact to a level of less than significance. Otherwise, the identified impact must be identified as significant and unavoidable. The DEIR fails to do any of this work.

BO030-40

Page 3.2-83, Section 3.2.6 A, Mitigation Measures For Potential Road Closures
This section proposes mitigation measure TR MM#1: Access Maintenance for Property Owners, which suggests a three-pronged approach to maintaining access for properties affected by project construction and/or operations. Specifically, it states "If a proposed road closure restricts current access to a property, provide alternative access via connections to existing roadways. If adjacent road access is not available, prepare new road connections, if feasible. If alternative road access is not feasible, the property would be considered for acquisition."

This measure fails because it does not identify where it would be applied, and more importantly does not identify where it would be feasible and effective in reducing impacts to a level of less than significance. In fact, the ambiguity of the mitigation measure is such that its effectiveness cannot even be predicted without a case-by case analysis. If either of the first two possibilities apply to a particular case (i.e., it is actually possible to provide access to the property) it might be argued that the measure would succeed in that instance. However, if no access can be provided to a property, the measure suggests that the property would be acquired. This will result is a significant impact to the current property owner that cannot be effectively mitigated.

This mitigation measure fails to provide a Project-Level analysis and fails to provide a level of information adequate for mitigation of significant project impacts.

BO030-41

Page 3.2-86, Section 3.2.6 B and Tables 3.2-29 through 3.2-40, Mitigation Measures For Intersection And Roadway Impacts
This section offers mitigation measures TR MM#2 through TR MM#7, then lists all significantly-impacted segments and intersections listed previously in the DEIR, applying various combinations of the proposed measures to each.

These mitigation measures fail because the DEIR does not identify whether the measures would be would be feasible and effective in reducing impacts to a level of less than significance for the listed locations.

None of the mitigation measures discussed in Section 3.2.6 are tied to specific impact numbers, yet each impact in these tables has one or more mitigation measures listed next to it. The DEIR fails to provide any information as to why particular mitigation measures are selected for each of the identified impacts, nor is there information as to the effectiveness, feasibility or financial assuredness of any of the selected measures.

Because Sections 3.2.5 and 3.2.6 fail to number and organize the discussions of impacts and mitigations, there is no reasonable way for a reader to connect the

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discussion of Project impacts in Section 3.2.5 with the discussion of potential mitigation measures in Section 3.2.6.

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The fundamental purposes of an EIR under CEQA are to provide information about the existing environmental setting, identify specifically how the project will impact the environment and identify specific effective, feasible and financially assured mitigation to reduce those impacts to a level of less than significance, to the greatest degree practical. By its very lack of structure and specificity, the DEIR fails to accomplish that purpose with respect to transportation resources. The entire section must be rewritten with project-specific analysis of the plethora of impacts identified.

Proposed mitigation measures must be designed to be effective in reducing specific Project-caused impacts, rather than offered in palette from, and the DEIR must provide information showing that the proposed mitigations are effective, feasible and financially assured. Anything less than this fails to meet the bar set by CEQA for a project-level EIR.

BO030-43

Page 3.7-1, Section 3.7.1 Introduction

- This section and others in the EIR/EIS consistently reference the *Fresno to Bakersfield Section: Biological Resources and Wetlands Technical Report* (Authority and FRA 2012a), yet do not include this report in the set of appendices for the EIR. While CEQA allows for "reference by incorporation", the fact that Revised DEIR/Supplemental DEIS (RDEIR/SDEIS) heavily utilizes this referenced technical report makes it an essential part of the attached appendix items.

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Page 3.7-1, Section 3.7.1 Introduction

- The discussion of key definitions is incomplete and does not cover all of the "biological resources" categories listed in the 2nd sentence of paragraph 1, under Section 3.7-1.

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Page 3.7-7, Section 3.7.1.1 Study Areas

- Given the complex nature of this RDEIR/SDEIS, it would be useful to the reader to have accompanying graphics that delineate the various Study Areas around the various alternatives.

BO030-46

Page 3.7-10 Section 3.7.3.3, Field Surveys

- This section notes that only 40% of the footprint of the project was actually surveyed for biological resources, due to access constraints. This leaves significant question as to the precision of the calculations of affected habitat, and to the accuracy of the analysis and conclusions of this RDEIR/SDEIS. A "representative sample" approach to impact analysis, which would be appropriate to a program EIR is not appropriate for a project level RDEIR/SDEIS.
- Additionally, with a few exceptions, CEQA requires that all impacts be measured, evaluated and mitigated to a level of less than significance. Absent 60% of the data, there is no reasonable way for the RDEIR/SDEIS to conclude it has met its burden of analysis and evaluation. Additional field studies must be accomplished, at appropriate times of suitable water years, to assure that the

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existing biological resources within the project construction footprint are accurately characterized.

- Further, the RDEIR/SDEIS is not consistent in presenting dates for the various field surveys.

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Page 3.7-13, Section 3.7.3.4 Methods for Evaluating Impacts

- The 1st sentence of paragraph 5 states "(see Sections 3.7.3[E] and 3.7.3 [F]", yet there are no such numbered sections in the RDEIR/SDEIS.

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Page 3.7-14, Section 3.7.3.6 CEQA Significance Criteria

- Formatting issues abound in this section and should be addressed for ease of the reader.
- Per CEQA Guidelines 15064.7, the RDEIR/SDEIS does not define the CEQA thresholds of significance being utilized in the analysis of the High Speed Rail project, nor does it explain the criteria used to judge whether an impact is Significant, Less-than-Significant, or has No Impact..

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Section 3.7.4, Affected Environment

- Under CEQA, the existing environmental setting must be defined and the effects of the project compared with that baseline. The RDEIR/SDEIS fails to define a baseline (current year) environmental setting for the project area. Instead, it attempts to use the No Project Alternative as a baseline, providing a misleading picture of what the RDEIR/SDEIS asserts to be an ever-more-hostile natural setting.

BO030-50

Page 3.7-17, Section 3.7.4.2 Plant Communities and Land Cover Types

- 1st sentence, paragraph 2, of sub-section BNSF Urban mentions crop as "developed land" yet in preceding sub-sections, crop is defined under "agricultural land".
- 2nd sentence, paragraph 1 of sub-section Valley Oak Woodland discusses the valley oak woodland habitat as being found within the Habitat Study Area but not within the "impact area". The reader is not clear as to what "impact area" this is meant to reference, or the size of this "impact area".

BO030-51

Page 3.7-29, Section 3.7.4.5 Habitats of Concern

- 5th sentence, paragraph 1 of sub-section Jurisdictional Waters: Seasonal Riverine states: "Descriptions of the major waterways are also provided in Section 3.8, Hydrology and Water Resources....", implying that Section 3.7, Biological Resources and Wetlands provides these descriptions in addition to Section 3.8, Hydrology and Water Resources. However, Section 3.7, Biological Resources and Wetlands does not provide any descriptions of such major waterways.
- 1st sentence, paragraph 2 of sub-section Jurisdictional Waters: Seasonal Riverine states that vernal pools and swales are located immediately adjacent to the BNSF tracks. Is this habitat type located only in certain areas along the BNSF track or along its entire length?

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- Sub-section Conservation Areas: Public Lands – Colonel Allensworth State Historic Park- the RDEIR/SDEIS provides a historic overview of this Public Land site but fails to discuss the relevance of this Park for biological resources, even though this State Park is located between two potential HST alternatives. The reader is not made aware of the presence or absence of potential biological resources and therefore can make no determination of impacts from the various alternatives to this historic site.

BO030-52

Page 3.7-38 through 3.7-41, Section 3.7.4.6 Wildlife Movement Corridors

- This section introduces, in bullet style, seven wildlife movement corridors analyzed in the RDEIR/SDEIS. However, the following discussion on each of these corridors is confusing, without sub-headings or other formatting features that allows the reader to easily transition from one wildlife corridor discussion to another.
- There is a discussion regarding the Pacific Flyway but it is not introduced in the introductory paragraphs to the Wildlife Movement Corridor section, not listed along with the other seven wildlife corridors. The reader is left to surmise the relevance of the Flyway to the seven wildlife corridors.

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Page 3.7-43 through 3.7.159, Section 3.7.5.3, High Speed Train Alternatives

- This section begins on page 3.7-43 and runs onto page 3.7-159 – nearly 96 pages. Over those pages, the document provides no additional section numbering. Section sub-heads are repetitive, as the various alternative alignments are evaluated over and over on a number of topics. While CEQA does not speak directly to the need for section numbering, the author's choice to cover all of the various biological resource topics in a single section would be questionable even on a small project. On a project the magnitude of the HST, the effect is a document that cannot be comprehended without repeated study, and cannot be easily searched in any case. The table of contents provides no entries to subdivide this section in any way. This falls short of a sincere effort to clearly inform the public.
- Eight of the nine project alternatives, the Hanford West Bypass 1 Alternative, the Hanford West Bypass 2 Alternative, the Corcoran Elevated Alternative, the Corcoran Bypass Alternative, the Allensworth Bypass Alternative, the Wasco-Shafter Bypass Alternative, the Bakersfield South Alternative and the Bakersfield Hybrid Alternative all compare the level of impact from any of the biological resources solely against the BNSF Alternative. This is not consistent with NEPA Guidelines which require that all alternatives be analyzed equally and at the same level of detail. Comparing the eight other alternatives only against the BNSF Alternative prejudices the project as it implies that the BNSF Alternative is the Locally Preferred Alternative (LPA), without providing clearly stated evidence identifying the BNSF Alternative as the LPA.

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Page 3.7-43 through 3.7.159, Section 3.7.5.3, High Speed Train Alternatives

- The various sub-sections on the nine alternatives employ phrases such as "habitats that have the potential to support special-status plant species are present," and "habitats that have a low potential to support special-status plant species." These phrases, characteristic of program-level environmental

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documents, fall short of the level of analysis required for this project-level EIR. Specifically to each of these sub-sections, the following questions must be answered: What portions of each of the Alignment impact special status plan species habitat? Which species are present? How many acres of each species are present? How many acres of each species will be temporarily and/or permanently destroyed by the project?

The RDEIR/SDEIS fails to answer these questions and is therefore deficient. There is no way for the RDEIR/SDEIS to evaluate the significance of impacts and the feasibility and effectiveness of potential mitigations without quantitatively evaluating the existing setting and the proposed project. None of that analysis is contained in the RDEIR/SDEIS.

The RDEIR/SDEIS spends a good deal of space quantifying the acreage of the various types of aquatic communities in the BNSF Alternative, and comparing those acreages with the several alignment competitors. However, the aquatic community per se does not define or limit the environmental impacts of a particular area, and while presuming to inform the RDEIR/SDEIS actually fails to provide the very information necessary for informed decisions, that being the actual acreages of existing special species and their habitats affected by each alignment.

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Page 3.7-43 through 3.7.159, Section 3.7.5.3, High Speed Train Alternatives

- The RDEIR/SDEIS states that "No protocol surveys for special-status wildlife species were conducted. Determinations made on the effects on special-status wildlife species assume that if suitable habitat was present, then the associated special-status wildlife species is also present." That statement is problematic for certain of the Special Status Species which may be present within the project's construction footprint, and need to be limited. For example, a bird such as *Coturnicops noveboracensis* (Yellow rail) – listed as a species of concern on both the federal and state registers – might indeed appear anywhere within the range of its habitat. Direct and indirect impacts analysis and potential mitigation measures can be accordingly flexible. The field surveyor might have spotted a Yellow Rail in one place today, but it will be in another place tomorrow and a different place next week or next year.

The situation is different for a species like the California Tiger Salamander (CTS) – a state- and federally-listed threatened species -- which has a defined range for aestivation habitat, or the Vernal Pool Fairy Shrimp – a federally-listed endangered species -- which exist only in vernal pools.

The RDEIR/SDEIS makes no effort to define or illustrate the potential range of the CTS's breeding habitat or aestivation habitat within the project footprint. How many acres of each will be impacted by the various alignment options? What measures will be taken, or can be taken, to provide suitable replacement habitat, or to preserve similar habitat in perpetuity? (These two measures are raised as questions because replacement habitat, preserved in perpetuity by a full-funded conservation trust, is the only mitigation measure known to be acceptable to US

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Fish & Wildlife Service for this species. Now that CTS is also state-listed, California Department of Fish & Game is becoming involved, and in some cases its required mitigations are more restrictive than what has been typical of USF&WS.)

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While the RDEIR/SDEIS discusses vernal pool delineation in the text, there are no figures showing existing vernal pools, or information defining how construction and on-going operations will affect these delicate habitats. As mentioned above, the US Army Corps of Engineers' policy limits "take" of vernal pool habitat to 0.49 acres on nearly all projects. How many acres will this project and each of its alternates affect?

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Similar comments apply to the analysis provided for each of the affected species. The RDEIR/SDEIS provides no specifics as to affected acreages or affected populations. Many other species will be similar to the Yellow Rail example where such lack of specificity may be appropriate. Others will be analogous to the CTS or Vernal Pool Fairly Shrimp examples, and for those the RDEIR/SDEIS must be revised to contain all information necessary for a precise and accurate assessment of species impacts and effective mitigation measures. At minimum, the RDEIR/SDEIS should be revised to include graphics depicting the actual habitats of the various potentially-affected species and pointing out where these habitats intersect with the construction footprints of the several alternatives. Given the plethora of species discussed and the large number of competing alignment alternatives, the textural descriptions relied upon by the RDEIR/SDEIS are inadequate to let the reader understand the information that is being conveyed.

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- The RDEIR/SDEIS identifies acreages of various community types and sensitive species habitats present in each alignment alternative, and compares those factors between the various alternatives. However, doing so misses the point of identifying the actual species affected by each alignment alternative. Because the RDEIR/SDEIS carried out such limited field surveys, it is unable to quantify the actual species impacts and so relies on speculation and extrapolation of its limited data set. This results in inadequate analysis of the actual project impacts, and a failure of the RDEIR/SDEIS to adequately identify and mitigate those impacts. These sections must be supplemented by real evidence supported by field studies, and the RDEIR/SDEIS must be revised to include that appropriate level of information.

BO030-59

Page 3.7-48, Section 3.7.5.3, High Speed Train Alternatives

- Each impact analysis (Bio #1 through Bio #8) for biological resources compares the eight alternatives (the Hanford Bypass #1, the Hanford Bypass #2, the Corcoran Elevated, the Corcoran Bypass, the Allensworth Bypass, the Bakersfield South, and the Bakersfield Hybrid) to the BNSF Alternative. This prejudices the alternatives analysis and leads the reader to conclude that the BNSF Alternative is the Locally Preferred Alternative (LPA) before all of the environmental resources have been fully analyzed. How does the Biological Resources section make the inference that the BNSF is the LPA, if the Preferred Alternative and the Environmentally Superior Alternative are not discussed until

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Section 6.0, Other CEQA/NEPA Considerations of the RDEIR/SDEIS? This is not consistent with NEPA Guidelines which require that all alternatives be analyzed equally and at the same level of detail. Comparing the impacts analysis for the eight other alternatives only against the BNSF Alternative prejudices the project as it implies that the BNSF Alternative is the Locally Preferred Alternative (LPA), without providing clearly stated evidence identifying the BNSF Alternative as the LPA.

BO030-60

- Again, the sub-sections discussing each of the eight impact analysis (Bio #1 through Bio #8) for biological resources all run for pages, with no additional section numbering that clearly delineates one impact discussion from the next. While CEQA does not speak directly to the need for section numbering, the author's choice to cover all of the various biological resource topics in a single section would be questionable even on a small project. On a project the magnitude of the HST, the effect is a document that cannot be comprehended without repeated study, and cannot be easily searched in any case. The table of contents provides no entries to subdivide this section in any way. This falls short of a sincere effort to clearly inform the public.

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Page 3.7-50, Section 3.7.5.3, High Speed Train Alternatives

- 1st sentence of paragraph 2 contradicts the 1st sentence of paragraph 1 in that the reader is unclear as to whether the unsurveyed areas have the potential or a low potential to support special status plant species.
- Wasco-Shafter Bypass Alternative: the 1st and 3rd sentences of paragraph 1 contradict since the 1st sentence states that special status plant species have a low potential to occur in the unsurveyed area, while sentence 3 states that the special status plant species have a moderate potential to occur in the unsurveyed areas.

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Page 3.7-71, Section 3.7.5.3, High Speed Train Alternatives

- Direct (Bios #3) Impacts during Construction Period: sentences 5 and 6 of paragraph 2 discuss in length the origin of the fill material to be used during construction. This has no relevance to the analysis of impacts to biological resources.

BO030-63

Page 3.7-86, Section 3.7.5.3, High Speed Train Alternatives

- Allensworth Ecological Reserve (under Allensworth Bypass Alternative): this section erroneously dismisses the Allensworth Alternative having any direct or indirect impacts on the Ecological Reserve due to a distance on 0.5 miles separating the Reserve from the proposed Alternative. However, the RDEIR/SDEIS previously stated on page 3.7-7, Section 3.7.3.1, Study Areas defines buffers of 250 feet or 0.5 miles and more as the footprint utilized to evaluate direct and indirect impacts. Therefore impacts to the Allensworth Ecological Reserve should be evaluated and discussed in the RDEIR/SDEIS.

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Page 3.7-98 through 3.7.159, Section 3.7.5.3, High Speed Train Alternatives

- Sub-section *Impact Bio #5 – Project Effects on Special Plant Species* through *Impact #8 – Project Impacts on Wildlife Corridors*: It is not clear to the reader why the impacts analysis for the HST Station areas and the Heavy Maintenance

BO030-64

Facilities (HMF) just repeat the same analysis under Impacts #5 through #8, as they for Impacts #1 through #4. There is no new information being presented, no new impacts being analyzed, nor are analyses for the HST track alternatives in any way connected or compared to their respective Station areas or HMF sites. The repetition makes the document even more cumbersome to read.

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Page 3.7-98 through 3.7.159, Section 3.7.5.3, High Speed Train Alternatives

- Sub-section *Impact Bio #5 – Project Effects on Special Plant Species* through *Impact #8 – Project Impacts on Wildlife Corridors*: The various sub-sections on the nine alternatives employ phrases such as "habitats that have the potential to support special-status plant species are present," and "habitats that have a low potential to support special-status plant species." These phrases, characteristic of program-level environmental documents, fall short of the level of analysis required for this project-level EIR. Specifically to each of these sub-sections, the following questions must be answered: What portions of each of the Alignment impact special status plan species habitat? Which species are present? How many acres of each species are present? How many acres of each species will be temporarily and/or permanently destroyed by the project?

  The RDEIR/SDEIS fails to answer these questions and is therefore deficient. There is no way for the RDEIR/SDEIS to evaluate the significance of impacts and the feasibility and effectiveness of potential mitigations without quantitatively evaluating the existing setting and the proposed project. None of that analysis is contained in the RDEIR/SDEIS.

  The RDEIR/SDEIS spends a good deal of space quantifying the acreage of the various types of aquatic communities in the BNSF Alternative, and comparing those acreages with the several alignment competitors. However, the aquatic community per se does not define or limit the environmental impacts of a particular area, and while presuming to inform the RDEIR/SDEIS actually fails to provide the very information necessary for informed decisions, that being the actual acreages of existing special species and their habitats affected by each alignment.

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Page 3.7-102, Section 3.7.5.3, High Speed Train Alternatives

- Sub-section *Impact Bio #5 – Project Effects on Special Plant Species*: Heavy Maintenance Facility Alternatives – The impacts analysis for the HMF sites is confusing since they all first state that the Fresno Works to Fresno HMF, the Kings County- Hanford HMF, and the Kern COG- Shafter-Wasco HMF sites would result in permanent impacts to unsurveyed habitats that have the potential to support special-status species, and then go on to state that the unsurveyed potential habitat is limited. How is this conclusion reached when areas remain unsurveyed, particularly, when the discussions also point the reader to Table 3.7-9 which indicates the hundreds of acres of agricultural lands that could be potentially affected by the HMF sites, and when **Page 3.7-16, Section 3.7.4.2 Plant Communities and Land Cover Types: Agricultural Land** discusses the potential for various common and special-status plant and animal species to occur in agricultural lands?

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Pages 3.7-126 through 3.7-127, Section 3.7.5.3, High Speed Train Alternatives

- Table 3.7-11 contradicts the impacts discussion on Page 3.7-125, Heavy Maintenance Facility Alternatives. The discussion on page 3.7-125 states that the operation of the HMF sites would have result in an effect of moderate intensity under NEPA and a significant impact under CEQA on special-status wildlife species (including Vernal Pool Brachiopods, Fish, Amphibians, and the Valley Elderberry Longhorn Beetle) for each of the five HMF sites. Yet Table 3.7-11 presents impacts levels that are either No Effect/No Impact or Negligible Effect/less than Significant Impact for Vernal Pool Brachiopods, Fish, Amphibians, and the Valley Elderberry Longhorn Beetle for each of the five HMF sites.

BO030-68

Pages 3.7-161 through 3.7-189, Section 3.7.7.1, Mitigation Measures – Common Mitigation Measures for Biological Resources, Section 3.7.7.2, Construction Period Mitigation Measures, and Section 3.7.7.3, Project Mitigation Measures

- This section proposes 65 mitigation measures for the biological resource impacts identified in Section 3.7.5. While the many paragraphs in Section 3.7.5 don't provide any numbering system or organization for the identified impacts, Table 3.7.18, beginning on page 3.7-191, attempts to group the impacts, assign mitigation measures from the palette of 65 identified earlier in the section, and make determinations of significance after mitigation. The RDEIR/SDEIS fails to provide any evidence that any of the proposed mitigation measures will be effective to mitigate the impacts to which the mitigation measures are assigned. No analysis of the resulting circumstances is presented, for any impact.

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Pages 3.7-161 through 3.7-189, Sections 3.7.7.1, Mitigation Measures – Common Mitigation Measures for Biological Resources

- This section proposed 65 mitigation measures for the biological resources impacts identified in Section 3.7.5. However, the following mitigation measures do not present any direction on how they are to be implemented or who would be responsible for their implementation:
  - Bio-MM#1 through Bio-MM#3
  - Bio-MM#5 through Bio-MM#9
  - Bio-MM#14 through Bio-MM#15
  - Bio-MM#19
  - Bio-MM#54 through Bio-MM#55
  - Bio-MM#57 through Bio-MM# 61
  - Bio-MM#63 through Bio-MM#65

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Page 3.7-162, Section 3.7.7.1, Mitigation Measures – Bio-MM#1. Designate Project Biologist(s), Contractor's Biologist(s), and Project Biological Monitor(s).

- The RDEIR/SDEIS does not explain why designating a project biologist will mitigate any particular impact. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#1 purports to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-71

Page 3.7-162, Section 3.7.7.1, Mitigation Measures – Bio-MM# 2. Regulatory Agency Access.

- The RDEIR/SDEIS does not explain why granting project access to regulatory agencies, which will be a condition of all permits issued by those agencies, will mitigate any project impacts. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#2 purports to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-72

Page 3.7-162, Section 3.7.7.1, Mitigation Measures – Bio-MM# 3. Prepare and Implement a Worker Environmental Awareness Program.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of this measure in mitigating any particular impact. An offer to prepare a plan does not constitute mitigation. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#3 purports to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-73

Page 3.7-163, Section 3.7.7.1, Mitigation Measures – Bio-MM# 4. Prepare and Implement a Weed Control Plan.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of this measure in mitigating any particular impact. An offer to prepare a plan does not constitute mitigation. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#4 purports to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-74

Page 3.7-166, Section 3.7.7.1, Mitigation Measures – Bio-MM# 8. Wildlife Exclusion Fencing.

- The RDEIR/SDEIS should be re-worded to clarify that wildlife exclusion fencing is not at all the same as silt fencing. Wildlife fencing is typically tightly-meshed metal with steel posts, while silt fence that would be typical of storm water management activities is plastic. In all likelihood, the project will employ both products in a variety of locations.

BO030-75

Page 3.7-166, Section 3.7.7.1 Mitigation Measures – Bio-MM# 9. Equipment Staging Areas.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of this measure in mitigating any particular impact. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#9 purports to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-76

Page 3.7-166, Section 3.7.7.1, Mitigation Measures – Bio-MM# 10. Mono-Filament Netting through Bio-MM# 11. Vehicle Traffic.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of these measures in mitigating any particular impact. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is

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BO030-76

not clear to the reader how Bio-MM#10 through #11 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-77

Page 3.7-167, Section 3.7.7.1, Mitigation Measures – Bio-MM# 14. 'Take' Notification and Reporting.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of this measure in mitigating any particular impact. An offer to prepare a report does not constitute mitigation. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#14 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-78

Page 3.7-167, Section 3.7.7.1, Mitigation Measures – Bio-MM# 15. Post-Construction Compliance Reports.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of this measure in mitigating any particular impact. An offer to prepare a report does not constitute mitigation. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#15 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-79

Page 3.7-168, Section 3.7.7.2, Mitigation Measures – Bio-MM# 16. Conduct Preconstruction Surveys for Special-Status Plant Species and Special-Status Plant Communities.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of this measure in mitigating any particular impact. Preparation of studies does not constitute mitigation. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#16 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.
- The discussion under this mitigation measure contradicts the dates of the field surveys that were discussed on page 3.7-48 of the RDEIR/SDEIS.

BO030-80

Page 3.7-169, Section 3.7.7.2, Mitigation Measures – Bio-MM# 19. Seasonal Vernal Pool Work Restriction.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of this measure in mitigating any particular impact. The RDEIR/SDEIS should also consider the feasibility of this mitigation, and its potential adverse impacts upon the project itself as a result of potential scheduling disruptions. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#19 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-81

Page 3.7-169, Section 3.7.7.2, Mitigation Measures – Bio-MM# 20. Implement and Monitor Vernal Pool Protection.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of this measure in mitigating any particular impact.
- The RDEIR/SDEIS fails to provide evidence that such a measure would be acceptable to USACOE, and so does not demonstrate feasibility. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#20 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-82

Page 3.7-170, Section 3.7.7.2, Mitigation Measures – Bio-MM# 21 Implement Conservation Guidelines for the Valley Elderberry Longhorn Beetle.

- The RDEIR/SDEIS fails to demonstrate the feasibility of this mitigation measure in the context of the project. There is no evidence that given actual locations of elderberry bushes within the construction footprint that the Guidelines referenced could actually be followed without infeasible changes to the project. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#21 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-83

Page 3.7-170, Section 3.7.7.2, Mitigation Measures – Bio-MM# 22. Conduct Preconstruction Surveys for Special-Status Reptile and Amphibian Species.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of this measure in mitigating any particular impact. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#22 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-84

Page 3.7-171, Section 3.7.7.2, Mitigation Measures – Bio-MM# 31. Raptor Protection on Power Lines.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of this measure in mitigating any particular impact. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#31 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-85

Page 3.7-175, Section 3.7.7.2, Mitigation Measures – Bio-MM# 34. Burrowing Owl Avoidance and Minimization.

- This mitigation measure proposes a variety of setback buffers from Burrowing Owl nests during nesting season, but fails to delineate how those setbacks would impact the construction footprint. There is no evidence that such buffers are actually feasible in the context of the proposed project.

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BO030-86

Page 3.7-177, Section 3.7.7.2, Mitigation Measures – Bio-MM# 40. Conduct Preconstruction Surveys for Special-Status Bat Species.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of this measure in mitigating any particular impact. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#40 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-87

Page 3.7-177, Section 3.7.7.2, Mitigation Measures – Bio-MM# 41. Bat Avoidance and Relocation.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of this multi-pronged measure in mitigating any particular impact. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#41 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-88

Page 3.7-177, Section 3.7.7.2, Mitigation Measures – Bio-MM# 42 Bat Exclusion and Deterrence.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of this multi-pronged measure in mitigating any particular impact. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#42 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-89

Page 3.7-178, Section 3.7.7.2, Mitigation Measures – Bio-MM# 43. Conduct Preconstruction Surveys for American Badger.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of this multi-pronged measure in mitigating any particular impact. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#43 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-90

Page 3.7-178, Section 3.7.7.2, Mitigation Measures – Bio-MM# 45. Conduct Preconstruction Surveys for San Joaquin Kit Fox and Bio-MM# 46. Minimize Impacts on San Joaquin Kit Fox

- The RDEIR/SDEIS fails to demonstrate the effectiveness of these multi-pronged measures in mitigating any particular impact. Preparation of studies does not constitute mitigation. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#45 and Bio-MM#46 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-91

Page 3.7-179, Section 3.7.7.2, Mitigation Measures – Bio-MM# 48. Restore Temporary Impacts on Jurisdictional Waters.

- The RDEIR/SDEIS fails to demonstrate the effectiveness or the feasibility of this measure in mitigating impacts to jurisdictional waters. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#48 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-92

Page 3.7-176, Section 3.7.7.2, Mitigation Measures – Bio-MM# 49. Monitor Construction Activities within Jurisdictional Waters.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of this measure in mitigating any particular impact. Monitoring does not constitute mitigation. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#49 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.
- This mitigation measures also states: "...document adherence to habitat avoidance and minimization measures addressed in the project mitigation measures..." but does not provide the specific mitigation measure numbers (or page numbers). The reader has no idea which "project mitigation measures" Bio-MM# 49 is attempting to reference in this mitigation measure discussion.

BO030-93

Page 3.7-180, Section 3.77.2, Mitigation Measures – Bio-MM# 50. Monitoring of Protected Trees through Bio-MM3 52, Construction in Wildlife Movement Corridors.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of these measures in mitigating any particular impact. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM# 50 through #52 accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-94

Page 3.7-181, Section 3.7.7.3, Mitigation Measures – Bio-MM# 53. Compensate for Impacts on Special-Status Plant Species through Page 3.7-183, Section 3.7.7.3, Mitigation Measure – Bio-MM# 57. Compensate for Impacts to Blunt-Nosed Leopard Lizard, Tipton Kangaroo Rat and Nelson's Antelope Squirrel.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of these measures in mitigating any particular impact. Compensation must provide funds for physical mitigation to be considered effective. The RDEIR/SDEIS provides no evidence that such feasible compensation programs exist for this impact. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#53 through #57 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

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Page 3.7-184, Section 3.7.7.3, Mitigation Measures – Bio-MM# 60. Compensate for Destruction of Natal Dens.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of this measure in mitigating any particular impact. Compensation must provide funds for physical mitigation to be considered effective. The RDEIR/SDEIS provides no evidence that such feasible compensation programs exist for this impact. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#60 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-96

Page 3.7-184, Section 3.7.7.2, Mitigation Measures – Bio-MM# 61. Compensate for Permanent Riparian Impacts.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of this measure in mitigating any particular impact. Compensation must provide funds for physical mitigation to be considered effective. The RDEIR/SDEIS provides no evidence that such feasible compensation programs exist for this impact. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#61 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.

BO030-97

Page 3.7-188, Section 3.7.7.3, Mitigation Measures – Bio-MM# 64. Compensate for Impacts to Protected Trees.

- The RDEIR/SDEIS fails to demonstrate the effectiveness of this measure in mitigating any particular impact. Compensation must provide funds for physical mitigation to be considered effective. The RDEIR/SDEIS provides no evidence that such feasible compensation programs exist for this impact. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Bio-MM#64 purport to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.
- The mitigation measure does not address the size of replacement trees and is therefore inadequate.

BO030-98

Page 3.7-189, Section 3.7.8, NEPA Impacts Summary

- The RDEIR/SDEIS makes the conclusion that the implementation of all 65 mitigation measures discussed in Section 3.7.8, from pages 3.7-162 through 3.7-189 would reduce all NEPA impacts for biological resources to a "not significant" level. However, the RRDEIR/SDEIS Section 3.7.3.5 Methods for Evaluating Effects Under NEPA fails to define "significance" under NEPA regulations. The criteria measuring "significance" are not the same under CEQA and NEPA and the RRDEIR/SDEIS fails to adequately inform the reader on this difference. Further, this section only discusses the level of intensity of an impact and fails to adequately inform and educate the reader how the levels of intensity translate into levels of significance later discussed under Section 3.7.8 NEPA Impacts Summary. As a result, the RDEIR/SDEIS is deficient.

BO030-99

- The fundamental purpose of an EIR under CEQA is to provide information about the existing environmental setting, identify specifically how the project will impact the environment and identify specific effective, feasible mitigation to reduce those impacts to a level of less than significance, to the greatest degree practical. By its very lack of structure and specificity, the RDEIR/SDEIS fails to accomplish that purpose with respect to biological resources. The entire section must be rewritten with added field investigation to fill in the blanks in the existing setting, with project-specific analysis of the plethora of impacts identified.

BO030-100

- Mitigation measures must be designed to demonstrably reduce these specific impacts, rather than offered as a palette from which to choose at some later date, and the RDEIR/SDEIS must provide information showing that the proposed mitigations are both feasible and financially assured. Mitigation measures should be adequate and serve to avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how most of the mitigation measures accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts.
- The RDEIR/SDEIS fails to meet the bar set by CEQA for a project-level EIR.

BO030-101

Page 3.14-9, Section 3.14.3 Methods for Evaluating Impacts

- 2nd sentence of paragraph 5 states that divided and remnant parcels were evaluated based on whether they met the basic acreage requirements for Williamson Act and Farmland Security Zone contracts. This approach is erroneous as existing farmland already under WAC or FSZ contracts will remain under such contracts unless the contracts are cancelled. The parcel as a whole should be analyzed for impacts to WACs and FSZ contracts.

BO030-102

Page 3.14-10, Section 3.14.3.2 Significance Criteria

- Appendix G of the CEQA Guidelines identifies five criteria for evaluating impacts to agricultural resources. The RDEIR/SDEIS only identifies and analyzes impacts to agricultural resources based on three of these five criteria.

BO030-103

Page 3.14-26, Section 3.14.4.2 Important and Protected Farmlands

- Figures 3.14-11 through 3.14-15 are not very legible in the colors chosen to represent protected farmland along the HST alternatives. The color categories for lands under WACs are so similar in hue to those for non-renewable WACs that it is difficult to distinguish the two categories on the maps. Additionally, the maps do not delineate FSZ lands, as stated in the discussions in paragraph 3 of page 3.14-25.

BO030-104

Page 3.14-31, Section 3.14.4.3 Agricultural lands Along the Proposed HST Alternatives

- The various sub-sections discussing each of the HST alignment alternatives as well as the various station area alternatives only state the various farmland categories located along each alternative alignment. However, no acreages are associated with each of the farmland categories until Section 3.14.5.1, Overview, which references the reader even further into the document to Table 3.14-5. This is not a readable approach to presenting information easily accessible to the general public.

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Page 3.14-35, Section 3.14.5.1 Overview

BO030-105
- Table 3.14-5 is confusing; acreages for eight of the nine alternatives are presented in negative numbers, the significance of which is not explained till page 3.14-46, Section 3.14.5.3. For over ten pages the reader is left in confusion as to why total acreages of affected farmland categories are not being presented in the table or in the text following the table. In fact, the information as presented in the table, contradicts the text as presented in the preceding pages 3.14-31 through 3.14-34, which states, for example the Wasco-Shafter Bypass Alternative (page 3-14.32) states "virtually all of the land crossed by the Wasco-Shafter Bypass Alternative is classified as Prime Farmland..." (CA HST RDEIR/SDEIS Fresno to Bakersfield Section, July 2012). Yet, if a reader were to verify this statement against the acreages presented for the Wasco-Shafter Bypass Alternative in Table 3.14-5, the acreage shows up as negative 16 (-16) acres.

BO030-106
- For Table 3.14-5, eight of the nine project alternatives, the Hanford West Bypass 1 Alternative, the Hanford West Bypass 2 Alternative, the Corcoran Elevated Alternative, the Corcoran Bypass Alternative, the Allensworth Bypass Alternative, the Wasco-Shafter Bypass Alternative, the Bakersfield South Alternative and the Bakersfield Hybrid Alternative all compare the level of impact to important farmlands permanently affected by each alternative, solely against the BNSF Alternative. This is not consistent with NEPA Guidelines which require that all alternatives be analyzed equally and at the same level of detail. Comparing the eight other alternatives only against the BNSF Alternative prejudices the project as it implies that the BNSF Alternative is the Locally Preferred Alternative (LPA), without providing clearly stated evidence identifying the BNSF Alternative as the LPA.

BO030-107
- Table 3.14-6 presents the WAC and FSZ contract acreages for the alignment alternatives but not for the station area alternatives, even though the discussion in the previous section on page 3.14-32 states that both the Kings-Tulare Station Area Alternatives are located on WACs and FSZs. Yet there is a table showing the acreages of protected farmland that potentially may be permanently impacted by the construction of the HMF sites. All the information presented for the alignment alternatives, the station areas and the HMF sites should be presented at the same level in order for the reader to make an informed decision regarding the project.

BO030-108
- For Table 3.14-6, eight of the nine project alternatives, the Hanford West Bypass 1 Alternative, the Hanford West Bypass 2 Alternative, the Corcoran Elevated Alternative, the Corcoran Bypass Alternative, the Allensworth Bypass Alternative, the Wasco-Shafter Bypass Alternative, the Bakersfield South Alternative and the Bakersfield Hybrid Alternative all compare the level of impact to protected farmlands solely against the BNSF Alternative. This is not consistent with NEPA Guidelines which require that all alternatives be analyzed equally and at the same level of detail. Comparing the eight other alternatives only against the BNSF Alternative prejudices the project as it implies that the BNSF Alternative is the Locally Preferred Alternative (LPA), without providing clearly stated evidence identifying the BNSF Alternative as the LPA.

Page 3.14-41, Section 3.14.5.3 High-Speed Train Alternatives

BO030-109
- Page 1-3, Section 1.1.3, The HST Environmental Review Process states that the RDEIR/SDEIS is a "project-level EIR/EIS" tiering off earlier "program-level" documents prepared for the proposed HST project. Yet, for all 11 impact discussions, the level of impact analysis still remains at a programmatic level. This is inconsistent with the type of document and level of environmental review that the RDEIR/SDEIS is stated to conduct in the Purpose and Need section for the proposed project.

Page 3.14-41, Section 3.14.5.3 High-Speed Train Alternatives

BO030-110
- For Table 3.14-8, eight of the nine project alternatives, the Hanford West Bypass 1 Alternative, the Hanford West Bypass 2 Alternative, the Corcoran Elevated Alternative, the Corcoran Bypass Alternative, the Allensworth Bypass Alternative, the Wasco-Shafter Bypass Alternative, the Bakersfield South Alternative and the Bakersfield Hybrid Alternative all compare the level of impact to important farmlands temporarily affected by construction, solely against the BNSF Alternative. This is not consistent with NEPA Guidelines which require that all alternatives be analyzed equally and at the same level of detail. Comparing the eight other alternatives only against the BNSF Alternative prejudices the project as it implies that the BNSF Alternative is the Locally Preferred Alternative (LPA), without providing clearly stated evidence identifying the BNSF Alternative as the LPA.

Page 3.14-43, Section 3.14.5.3 High-Speed Train Alternatives

BO030-111
- Impact AG #4 states that Table 3.14-5 summarizes the impacts to acres of important farmland converted from agricultural to non-agricultural uses. This is not correct as Table 3.14-5 shows the difference between acres of important farmland converted by each alignment alternative ***as compared to the BNSF Alternative.***

Page 3.14-45, Section 3.14.5.3 High-Speed Train Alternatives

BO030-112
- Impact AG #2 does not elaborate what constitutes a fair compensation for loss of agricultural production. This needs to be explained before the analysis can determine the impact to be negligible under NEPA and less than significant under CEQA. Would this involve compensation at fair market value of the property impacted? Additionally, since it would be inevitable to move or even replace certain utilities, this impact should be moderate under NEPA and significant and unavoidable under CEQA.

Page 3.14-51 Section 3.14.5.3 High-Speed Train Alternatives

BO030-113
- For Table 3.14-11, eight of the nine project alternatives, the Hanford West Bypass 1 Alternative, the Hanford West Bypass 2 Alternative, the Corcoran Elevated Alternative, the Corcoran Bypass Alternative, the Allensworth Bypass Alternative, the Wasco-Shafter Bypass Alternative, the Bakersfield South Alternative and the Bakersfield Hybrid Alternative all compare the level of impact

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to protected farmlands solely against the BNSF Alternative. This is not consistent with NEPA Guidelines which require that all alternatives be analyzed equally and at the same level of detail. Comparing the eight other alternatives only against the BNSF Alternative prejudices the project as it implies that the BNSF Alternative is the Locally Preferred Alternative (LPA), without providing clearly stated evidence identifying the BNSF Alternative as the LPA.

BO030-114

Page 3.14-53, Section 3.14.5.3 High-Speed Train Alternatives

- Impact AG #7 stated (pg 3.14-43) still states that loss of acreage for dairy wastes would require modification of the waste and nutrient management plans and would result in the need to increase offsite disposal or reduced herd size.

  Revision to the WMP & NMP plans would be required by regional water board regulations and should be a standard item in the compensation for any dairy that has an associated parcel included in HST. Also, every dairy had to submit a detailed flood protection report if it is inside of a flood zone. These would also have to be revised if the embankments of the train alter flood paths or ponding from the current situation. This could affect more dairies than those already identified by HST. Since the HST path crosses several flood zones, how HST will affect flooding needs to be addressed and identify all the dairies that may be affected.

  Loss of land causing offsite disposal or herd reduction is not the only solution. There are other manure management controls that can be incorporated that HST should offer in a compensation package. These could be minor manure management systems or larger systems such as a digester which could also offset greenhouse gases and generate green energy.

BO030-115

Page 3.14-55, Section 3.14.5.3 High-Speed Train Alternatives

- Impact AG #8 states that since road crossings of the HST in rural areas would be every 2 miles, impacts to irrigation distribution canals would be negligible under NEPA and less than significant under CEQA. However, given the total length of any of the nine alignment alternatives, there could be numerous road crossings of the HST in rural areas and the impact would not necessarily be negligible and less than significant. This impact discussion should provide total number of road crossings and the number of irrigation distribution canals impacted, before determining the level of significance.

BO030-116

Page 3.14-56, Section 3.14.5.3 High-Speed Train Alternatives

- Discussions under Impact AG #10 still do not clarify to the reader as to what analysis was performed to identify the costs involved with the loss of bees impacting the trains and reduced pollination leading to the loss of crop production? Were mitigations of reduced train trips/day in the daytime hours evaluated for the spring pollination period?

BO030-117

Page 3.14-56, Section 3.14.5.3 High-Speed Train Alternatives

- This section stills states that studies summarized by FRA in 1999 determined that from one study the wind generated by the train has a velocity of 10% of train

BO030-117

speed at 3 meters (10 ft) and from a different study airflow dissipates in less than one second.

With all of the systems in use in Europe and Asia, why is a 12 year old summary of previous studies done by universities back to 1977 used for this evaluation? Is there any current data?

BO030-118

What is provided as the analysis performed is the extrapolation of two different studies, assuming equivalent aspects, and thereby a conclusion. What is presented in the first study amounts to a pressure wave caused by a train going 220 mph pushing air out of its path from a calm not moving condition to a velocity of 32 ft/s at a distance of 10 feet from the train. And then the second study wind "dissipates" in one second. However, it will take a full 2 seconds for the train (660 ft @ 220 mph) to pass any given point before air can even begin to be sucked back to its original location. So what is the definition of "dissipates" used here? How is that relevant? The original volume of air will not be moving back into position at a minimum of 2 seconds after the initial impact with the nose of the train.

Since this affects a gas and not a particle, turbulence is created in pushing air out of the way replacing it with a solid object and then 2 seconds later sucked into the voided space. What is not presented is an evaluation of the turbulence's lasting effects that is important to pesticide spraying namely any drift, or the interaction of opposing trains, or the accumulation of any drift based on frequency of trains.

BO030-119

Page 3.14-56, Section 3.14.5.3 High-Speed Train Alternatives

- The Kings County Agricultural Commissioner's office has determined that, depending on the materials being applied, the required setbacks to sensitive areas could be a ¼ mile or more for aerial applications and 1/8 mile or more for ground applications. There are also re-entry limitations based on materials used. It is the responsibility of the office to verify with testing and mitigations are altered based on results. This section still does not contain any presentation and discussion of the level of pesticide risk for typical materials used, setbacks, or proposed mitigations such as windbreaks or shelterbelts for either crop drift or the risk of passengers of the train for immediately passing through following an application.

BO030-120

Typical aerial applicators from the Kings County area currently remain ½ mile from the existing railroad or go into a holding pattern while a train is in the area and is able to resume applications after it passes. With the proposed frequency of trains of HST (200/day) the ability to apply within ½ mile will be nearly impossible and also raise more concern of the health of the passengers of the train if it is attempted.

BO030-121

Construction of the HST system will also be a sensitive area, requiring a setback from those operations due to exposure to construction personnel.

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BO030-121

- This section should also include discussions and mitigation for ground spraying as well as spraying in sensitive areas, ventilation intakes for passengers in a sprayed zone, turbulence & drift, setbacks during the construction period.

BO030-122

Page 3.14-57, Section 3.14.6 Project Design Features

- Sub-section **Farmland Consolidation Program**: 3rd sentence is incomplete and the reader is left to surmise the goal of the Program.

BO030-123

- This sub-section is rife with phrases such as "would temporarily idle some remainder parcels". The entire RDEIR/SDEIS is poorly written and lacks coherence. Incomplete sentences and poor grammar only highlight the lack of quality control over not only the level of environmental analysis but the content of the RDEIR/SDEIS.

BO030-124

- Sub-section **Research**: This sub-section states that the Authority will fund a program to conduct research on the wind and noise effects of HST operations on agricultural activities. Yet, page 3.14-56, Section 3.14.5.3, High-Speed Trail Alternatives, references wind research on bees that has been completed by the Authority. These two sections contradict each other and the reader is dubious about the veracity of either of these sections.

BO030-125

Page 3.14-58, Section 3.14.7 Mitigation Measure

- Ag-MM#1 is an inadequate mitigation measure; it does not address impacts to important and protected farmlands even though Impact Ag #4 and Impact Ag #6 determine a number of the alternative impacts to be significant. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Ag-MM#1 purports to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts
- Additionally Ag-MM#1 defers mitigation by proposing that the Authority will enter into an agreement with the Department of Conservation to preserve farmland. The mitigation measure does not demonstrate how it would actually mitigate for any of the significant impacts, but rather proposes to develop performance standards and selection at some point in the future. Adequate mitigation measures should avoid, minimize, rectify, reduce over time, or compensate for the potential impacts. It is not clear to the reader how Ag-MM#1 purports to accomplish the objectives of avoiding, minimizing, rectifying, reducing or compensating for any impacts

BO030-126

Page 3.19-1, Cumulative Impacts
This entire Section 3.19 does not approach analysis of cumulative impacts in the manner required by CEQA. A primary fault recurs throughout, in that the "No Project Alternative" refers to statistics that reflect the entire region or State should the HST not proceed. The document then compares the anticipated effect of the HST against that over-broad background and concludes that the project's effects are much less dramatic than they would be if compared against the correct background.

CEQA requires that the No Project Alternative consider what would happen with respect to the Project area if there were to be no project constructed. That does not mean the entire Central Valley region, nor the entire State of California. Each of the subsections

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must be rewritten to correctly compare the cumulative effects of the Project, its alternative and the No Project Alternative against the actual project area.

BO030-127

Page 3.19-2, Cumulative Projects and Growth Forecasts
Both the List of Planned and Potential Projects and Plans contained in Appendix 3.19A and the List of Planned and Potential Transportation Projects contained in Appendix 3.19B referenced in this section are grossly incomplete.

Major planned projects such as the Friant Ranch Specific Plan in Fresno County are not mentioned. Not a single proposed residential project in the cities of Fresno or Clovis is mentioned, though literally dozens have been approved or are in process.

Strikingly, none of the major transportation projects required to implement this segment of the HST are mentioned. A single example would be the necessary relocation of SR 99 from Ashlan to Clinton Avenues in Fresno, which will displace dozens of homes and businesses at a cost of over $100 million. Appendix 3.19B contains numerous projects completed as much as four years ago (e.g., completion of the SR 180 freeway segment from Hughes to Brawley Avenues in Fresno) which should be part of the existing background, not of the planned future.

Because there will be so many additional projects required should the HST project proceed, there must be disclosure in this document of those projects and impacts, as well as how the approval and environmental clearance procedures for those projects will affect the timing of the HST project.

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Pages 3.19-4 through 3.19-10, Tables 3.19-1 through 3.19-10
These tables summarize the "foreseeable" projects considered in Section 3.19. Each refers to "Transportation Projects" which are detailed by reference in Appendix 3.19B. These tables state that the "(o)perational impacts are generally unknown." This is not a reasonable or acceptable response. There is no substantial evidence as to how the proposed project, in addition to the 154 projects, would have a less than significant impact to traffic in the study area. Pursuant to §15384(b) of the CEQA Guidelines, Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

To the extent that planned regional transportation projects will affect the future transportation grid operations, those impacts must be planned into the Future traffic scenario. Then, the Full Build project traffic impacts can be added, and the difference in operating conditions can be determined. Those are the Cumulative Traffic Impacts. This DEIR completely fails to make the necessary analysis of the actual impacts of this project upon the project area.

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Page 3.19-16, Transportation Near and Long-Term Operations, Mitigation
The analysis in the DEIR assumes that since mitigation measures have been provided that can reduce project impacts to less than significant, that the same mitigation would therefore reduce cumulative impacts to a less than significant level. This fails for two reasons. First, the "mitigation measures" proposed in Section 3.6 cannot be assumed

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adequate to give the asserted mitigation, since no substantial evidence is given as to how the proposed project, together with any particular mitigation measure or set of measures, would have a less than significant impact to traffic in the study area. Pursuant to §15384(b) of the CEQA Guidelines, Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

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Second, the EIR fails to analyze the effects of the project *in addition* to the 154 reasonably foreseeable projects in the study area. As such, the cumulative impact analysis is not adequate and must be revised in a recirculated EIR.

BO030-131

Page 3.19-17, Public Utilities and Energy, Electrical Energy and Infrastructure
This Section notes new solar projects are planned in Kern County, but fails to note that a substantial number of new solar projects are planned in Fresno, Kings and Tulare counties as well. There is no analysis provided of how the HST might interact with any of these projects or what the added electrical system capacity might mean to the Project.

This Section compares the HST's energy use with airplane service, which is irrelevant. The necessary comparison is not with hypothetical airplane service, but with the status quo. The Section notes an HST system-wide electrical demand of 8 GWh/day. Numerous questions are unaddressed:

- What is the planned HST energy demand in the Project segment (Fresno to Bakersfield) including stations and the HMF?
- What is the no-project energy use within the Project area, pre-project and at the horizon year?
- Is capacity available on the existing grid to supply the proposed demand?
- If not, what mitigation measures are proposed in order to meet demand without stripping capacity from already-planned growth?
- Are the proposed mitigation measures feasible?
- What is the cost of the proposed mitigation measures, and how will they be funded and constructed?

The section further concludes that since the HST uses less power system-wide than would a hypothetical equivalent airplane service, that this somehow means the Project is somehow beneficial to energy conservation. Again, numerous questions are unaddressed:

- How much energy would an equivalent airplane service use?
- If it's equivalent, why would the airplane service provide only 25 percent of the passenger carrying capacity of the HST?
- What load factors are assumed in calculating per-rider electrical consumption and energy use? (A train carrying a single rider is clearly much less energy efficient than is a fully-loaded train.)
- Why is the HST being compared with a non-existing and never-proposed hypothetical airplane service, and not with, say, expansion of the current

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passenger car service and/or expansion of Amtrak and/or additional intercity bus service?

For the above reasons, this section is inadequate and falls far short of meeting the CEQA requirements for analysis and for proposal of feasible, funded and effective alternatives. The section must be revised and the DEIR recirculated.

BO030-132

Page 3.19-19, Public Utilities and Energy, Mitigation
This Section concludes that no mitigation is required for Public Utilities and Energy impacts. For the reasons detailed above, that conclusion is specious and must be revisited. There is not adequate evidence that no significant impacts will be incurred under this topic, since adequate analysis has not been completed. Once such analysis is complete a final decision can be made as to mitigation measures meeting CEQA requirements.

BO030-133

Page 3.19-19, Biological Resources
Nothing in the entire cumulative impact section dedicated to biological resources contains any analysis of the impacts associated with Project in addition to the 154 planned projects in the study area. CEQA Guidelines §15130(b)(5) states that a reasonable analysis of the cumulative impacts of the relevant projects is necessary to make an adequate discussion of significant cumulative impacts. The EIR fails to do so, and as such, the impact area must be reanalyzed in a revised EIR.

BO030-134

Page 3.19-19, Biological Resources, Construction, Special Status Plants and Wildlife Species
This Section suggests that while there would be impacts to a variety of protected and endangered plant and animal species (under both State and Federal Endangered Species Acts) due to construction of the Project, that compliance with ESA, CESA and the MBTA would amount to acceptable mitigation. This is far from the truth.

Compliance with the various applicable laws is assumed, but does not in any way constitute impact mitigation. Prior to breaking ground, the Project will require a complete, approved Biological Opinion from USFWS, a 404 permit from USACOE, and an ITP from CADFG. Each of these permits deal in great detail with individual impacts of the project on a square-foot basis, and each requires explicit mitigation of impacts. No sweeping promises of "compliance: are acceptable. Similarly, both CEQA and NEPA require identification of individual impacts and effective mitigation measures.

As a single example among many, the document refers to impacts to wildlife migration corridors. Presuming that the RDEIR/SDEIS had accurately identified wildlife corridors through the necessary field study(not done, apparently), then, in order to meet CEQA requirements the following questions need to be addressed:

- Which specific wildlife corridors are affected?
- Specifically, what mitigation measures will be used?

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- If wildlife crossings are proposed, where will they be?
- What will they look like?
- Which species will be expected to traverse the crossings?
- Will the crossings provide effective crossings for the anticipated species?
- Who will be monitoring the effectiveness of this mitigation after construction?

All of this is required information under CEQA and none is provided in the DEIR, which is therefore deficient and must be revised and recirculated. We note we have not made similar comments on other mentioned biological impacts purely for the sake of brevity. All biological impacts found to be significant or potentially significant must be addressed to this level of detail.

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Page 3.19-21, Hydrology and Water Resources
This DEIR does not make reference to a Water Supply Assessment (WSA). A WSA is required under Water Code section 10910 et seq. for project meeting certain water demand thresholds. While the Water Code does not contemplate a High Speed Train system as a project type, Section 10912 (a) (7) includes this definition of a project subject to the WSA requirements: " A project that would demand an amount of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project."

No information is given in the DEIR as to the annual water requirement of the Project's facilities. This is required analysis. A 500-unit residential development typically consumes approximately 250 AF of water per year, so if the Project demand will meet or exceed that amount, a WSA must be prepared. Water Code Section 10911 (b) requires that the WSA must be included in any environmental document prepared for a project subject to the WSA requirements, which would include this DEIR.

The WSA will provide information including the names of the water purveyors, the sources of proposed water supplies, the federal, state and local permits and approvals required to secure the proposed water supplies, the plan of finance to construct the improvements required to deliver the proposed water supply to the project, a description of any groundwater basin or basins from which the proposed project will be supplied (including information as to whether the Department of Water Resources (DWR) has identified the basin or basins as overdrafted or has projected that the basin will become overdrafted if present management conditions continue, in the most current DWR bulletin that characterizes the condition of the groundwater basin, and other statutorily-mandated disclosures.

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Page 3.19-21, Hydrology and Water Resources
It is stated that the incremental increase in demand from the HST alternatives would have a less than cumulatively considerable contribution to water resource impacts; however, there is no quantifiable analysis associated with this conclusion. The analysis fails to quantify the amount of water used, in conjunction with the proposed 154 development projects in the study area. As this information is readily accessible, the impact area must be reanalyzed to quantify the amount of water needed, which would

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then allow the reader to make an informed decision with regard to potential water resources impacts.

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Also, this Section again attempts to rely on following the law and pointing out that NPDES permits for drainage discharges will be required from the Regional Water Quality Control Board as assurance of mitigation. As with Biology, compliance with the law is no assurance of mitigation. Each significant and potentially significant impact requires individual analysis and mitigation to assure effective, feasible and funded mitigation.

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On page 3.19-22, the Section states that "Project-level analysis would identify and analyze, and avoid, minimize or mitigate potential impacts on the hydrology and connectivity of natural watercourses, to the extent feasible." We must point out that the subject DEIR is the mentioned "Project-level" analysis. No other environmental review is proposed; this is it. The remainder of the quoted sentence goes on to correctly state our position on all the impacts that will be caused by the Project, and the legal requirement for analysis, avoidance, minimization and mitigation imposed by CEQA. This is exactly what the subject document must accomplish.

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Page 3.19-29, Socioeconomics, Communities and Environmental Justice, Construction, Economic
The Section states that cumulative economic impacts "cannot be identified at this time." While it is true that future uncertainties will make precise calculations difficult, that difficulty does not remove the duty to make a reasoned estimate of economic impacts, so that mitigation measures can be developed and implemented. This analysis is incomplete and does not meet the requirements of NEPA.

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Page 3.19-29, Socioeconomics, Communities and Environmental Justice, Near and Long-Term Operation, Economic
The Section states that "Most businesses that would relocate under any of the HST alternatives would continue to benefit from the improved economy." The document provides no evidence for the why, how, or magnitude of such a sweeping conclusion. This analysis is incomplete and does not meet the requirements of NEPA.

BO030-141

Page 3.19-30, Socioeconomics, Communities and Environmental Justice, Near and Long-Term Operation, Environmental Justice
The Section states that "Implementation of the HST system *as a whole* is not expected to result in disproportionately-high and adverse effects on minority or low-income populations, as described in the 2005 Statewide Program EIR/EIS and the 2008 Bay Area to Central Valley Program EIR/EIS." (Emphasis added.) This statement is problematic for a number of reasons and requires substantial additional analysis.

First, a conclusion based on the system as a whole cannot be applied to this subset of the system. The demographics of the Project area are substantially different than the demographics of both the Bay Area and the Los Angeles basin. Fresno County is home

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to the very highest percentage of impoverished residents in the entire United States. The poverty statistics in Kings, Tulare and Kern counties are only slightly better. As well, the Central Valley has a very high percentage of both Hispanic and Asian residents, well in excess of statewide averages. The impacts of the Project absolutely will fall disproportionately on both minority and low-income populations. As a Project-level analysis, it is completely inadequate for the DEIR to rely on such generalizations made in four-year-old and seven-year-old program level documents. The data in those reports is not only over-broad, it is stale and not acceptable for use in the current DEIR.

Additional analysis, using currently-available data from the 2010 US Census, must be included in a revised DEIR/DEIS and recirculated.

BO030-142

Page 3.19-31, Station Planning, Land Use, and Development, Near and Long-Term Operation
The analysis presented in the Near and Long Term Operation describes how the HST system as a whole could contribute to potentially significant impacts associated with sensitive land uses and how the implementation of segments of the HST system in the Central Valley corridor would have the greatest land use incompatibilities of any part of the HST system. However, the Summary of NEPA/CEQA Impacts describes the impact as less than cumulatively considerable under CEQA. No discussion is provided as to how this conclusion was made, as the analysis presented describes only the potential for significant impacts.

It appears they analysis may have included the entire HST system, since the document seems to offset the admitted land use incompatibilities in the Project area against what are presumed to be less-than-significant impacts in Bay Area project segments. This document is a Project-level EIR/EIS for the Fresno-Bakersfield segment, and impacts within the segment must be identified and mitigated to the extent feasible. Offsetting them against less significant impacts outside the Project area is contrary to the CEQA guidelines.

The EIR must be adequately analyzed in this impact area and recirculated.

BO030-143

Page 3.19-32, Station Planning, Land Use, and Development, Summary of NEPA/CEQA Impacts
The document states that while there would be significant land use planning impacts under both NEPA and CEQA due to the project, somehow the very effects of these impacts (densification in currently rural agricultural areas) are beneficial and result in less-than-considerable cumulative land use impacts. Such a conclusion, standing without a single sentence of explanation, flouts logical analysis.

The Project will admittedly cause significant land use planning impacts. These must be measured against the planning goals of the affected agencies along the Project area, not against an unstated ideal that "densification is beneficial." It's unclear where such a standard arose with respect to the Project area since the vast majority of the affected

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area is currently agriculture, where densification has no real meaning and no demonstrable benefit.

The EIR must be adequately analyzed in this impact area, impacts must be appropriately mitigated, and the document recirculated.

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Page 3.19-33, Agricultural Lands, Mitigation
This Section states that though there will be significant impacts resulting from loss of farmland that will be cumulatively considerable, no mitigation is available. This is clearly not the case. While the specific Project lands would have to be converted and taken out of agricultural use to implement the Project, the Project's proponents could purchase and set aside offsetting lands in a farmland trust. This measure has been required of numerous other projects in the state where significant ag land conversions have been proposed, and it is an effective way to assure that our critically-important farmlands are not completely subsumed by development.

Since this measure was not even considered, it and any other potential mitigation measures must be analyzed and adopted if at all feasible in order to minimize this cumulatively considerable impact.

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Refer to Standard Response FB-Response-GENERAL-23.

The Revised DEIR/Supplemental DEIS evaluated all impacts against existing conditions. To fully understand and analyze impacts for some resource areas (e.g., transportation and air quality), the Revised DEIR/Supplemental DEIS also evaluated impacts against anticipated future pre-project conditions. The use of a dual baseline approach is consistent with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and recent case law interpreting CEQA and the CEQA Guidelines, including *Sunnyvale West Neighborhood Association v. City of Sunnyvale City Council* (2010) 190 Cal. App.4th 1351 (Sunnyvale), which is cited by the commenter. The Court of Appeal in that case specifically acknowledged that discussions of the foreseeable changes and expected future conditions "may be necessary to an intelligent understanding of a project's impacts over time and full compliance with CEQA." (Id. at p. 1381; see also id. at p. 1382 ["There is no doubt that comprehensive regional transportation planning must look at the big picture and take the long view"].) The same district court of appeal, in *Pfeiffer v. City of Sunnyvale* (2011) 200 Cal.App.4th 1552, 1572-1573, upheld an EIR's traffic analysis that compared the proposed project both to existing conditions and to projected future traffic conditions. Here, the EIR/EIS appropriately used an existing conditions baseline and, where also appropriate, a future conditions baseline to accurately analyze the project's environmental impacts and to devise mitigation measures for such impacts.

The commenter implies that a lead agency may never deviate from use of an existing baseline, even when doing so makes sense. This suggestion is inconsistent with CEQA, which does not elevate form over function. The principal purpose of an EIR is "to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; . . ." Pub. Resources Code, § 21061. (*Environmental Planning & Information Council v. County of El Dorado* [1982] 131 Cal.App.3d 350, 355.) In Sunnyvale, cited by the commenter, the Court of Appeal disapproved of the baseline adopted by the city because the baseline was hypothetical and unrealistic. Without a realistic baseline, the EIR did not fulfill its informational function. (Sunnyvale, supra, 190 Cal.App.4th at pp. 1380-1381; see also *Communities for a Better Environment v. South Coast Air Quality Management Dist.* [2010] 48 Cal. 4th, 310, 322 [CBE]). In contrast, the existing baseline and future pre-project conditions

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baseline utilized in the EIR/EIS provide a realistic description of the existing conditions as they exist now and as they are predicted to exist it the future when the project is operational. The dual baseline approach utilized in the EIR/EIS provides a more realistic comparison than the use of only an existing conditions baseline because it is substantially more likely that existing traffic level volumes (and background roadway changes due to other programmed traffic improvement projects) will change between today and 2020/2035 than it is for existing traffic conditions to remain precisely unchanged over the next 10 to 25 years.

To the extent that the commenter is suggesting that the mitigation measures proposed in the EIR/EIS cannot be based on the Future No Build Plus Project analysis, the Authority and FRA disagree. For instance, regarding the Project's traffic impacts, if project construction requires a permanent road closure, and the closure would redirect existing traffic to an intersection that would experience resulting significant level of service (LOS)/congestion impacts, the associated mitigation would be implemented at the time of the closure. In such instances, the mitigation would be based on the Existing Conditions Plus Project analysis, given that construction is scheduled to commence soon. If, on the other hand, the significant traffic impact would only occur after the HST station opens and traffic occurs, the mitigation would be based on the Future No Build Plus Project analysis (see Section 3.2.7, Mitigation Measures). This approach complies with CEQA, which provides that "[e]ach public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so." (Pub. Resources Code, § 21002.1, subd. (b).) In devising mitigation measures, it is imperative that the EIR/EIS base its analysis on a realistic baseline of conditions as they will exist at the time of the impact because an inaccurate measure of impacts through an inaccurate baseline could result in mitigation measures that are not tailored to the actual impacts. Using an existing baseline for traffic or air quality impacts that will not occur until the future could result in the project over-mitigating or, worse, under-mitigating impacts. This is not what CEQA requires. Instead, mitigation measures must be capable of avoiding or minimizing the actual impacts of the project. (See Ibid.)

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Refer to Standard Response FB-Response-GENERAL-22.

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The commenter states that the traffic analysis in the EIR/EIS only includes a cumulative analysis. The commenter is incorrect. The Revised DEIR/Supplemental DEIS evaluated all impacts against existing conditions. To fully understand and analyze impacts for some resource areas (e.g., transportation and air quality), the Revised DEIR/Supplemental DEIS also evaluated impacts against anticipated future pre-project conditions. The use of a dual baseline approach is consistent with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and recent case law interpreting CEQA and the CEQA Guidelines, including *Sunnyvale West Neighborhood Association v. City of Sunnyvale City Council* (2010) 190 Cal. App.4th 1351 (Sunnyvale), which is cited by the commenter. The Court of Appeal in that case specifically acknowledged that discussions of the foreseeable changes and expected future conditions "may be necessary to an intelligent understanding of a project's impacts over time and full compliance with CEQA." (Id. at p. 1381; see also id. at p. 1382 ["There is no doubt that comprehensive regional transportation planning must look at the big picture and take the long view"].) The same district court of appeal, in *Pfeiffer v. City of Sunnyvale* (2011) 200 Cal.App.4th 1552, 1572-1573, upheld an EIR's traffic analysis that compared the proposed project both to existing conditions and to projected future traffic conditions. Here, the EIR/EIS appropriately used an existing conditions baseline and, where also appropriate, a future conditions baseline, to accurately analyze the project's environmental impacts and to devise mitigation measures for such impacts.

The commenter implies that a lead agency may never deviate from use of an existing baseline, even when doing so makes sense. This suggestion is inconsistent with CEQA, which does not elevate form over function. The principal purpose of an EIR is "to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; . . ." Pub. Resources Code, § 21061). (*Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 355.) In Sunnyvale, cited by the commenter, the Court of Appeal disapproved of the baseline adopted by the city because the baseline was hypothetical and unrealistic. Without a realistic baseline, the EIR did not fulfill its informational function. (Sunnyvale, supra, 190 Cal.App.4th at pp. 1380-1381; see also *Communities for a Better Environment v. South Coast Air Quality Management Dist.* [2010] 48 Cal. 4th, 310, 322 [CBE].) In contrast, the existing baseline and future pre-project conditions baseline utilized in the EIR/EIS provide a realistic description of the existing conditions

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as they exist now and as they are predicted to exist it the future when the project is operational. The dual baseline approach utilized in the EIR/EIS provides a more realistic comparison than the use of only an existing conditions baseline because it is substantially more likely that existing traffic level volumes (and background roadway changes due to other programmed traffic improvement projects) will change between today and 2020/2035 than it is for existing traffic conditions to remain precisely unchanged over the next 10 to 25 years.

To the extent that the commenter is suggesting that the mitigation measures proposed in the EIR/EIS cannot be based on the Future No Build Plus Project analysis, the Authority and FRA disagree. For instance, regarding the Project's traffic impacts, if project construction requires a permanent road closure, and the closure would redirect existing traffic to an intersection that would experience resulting significant level of service (LOS)/congestion impacts, the associated mitigation would be implemented at the time of the closure. In such instances, the mitigation would be based on the Existing Conditions Plus Project analysis, given that construction is scheduled to commence soon. If, on the other hand, the significant traffic impact would only occur after the HST station opens and traffic occurs, the mitigation would be based on the Future No Build Plus Project analysis (see Section 3.2.7, Mitigation Measures). This approach complies with CEQA, which provides that "[e]ach public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so." (Pub. Resources Code, § 21002.1, subd. (b).) In devising mitigation measures, it is imperative that the EIR/EIS base its analysis on a realistic baseline of conditions as they will exist at the time of the impact because an inaccurate measure of impacts through an inaccurate baseline could result in mitigation measures that are not tailored to the actual impacts. Using an existing baseline for traffic or air quality impacts that will not occur until the future could result in the project over-mitigating or, worse, under-mitigating impacts. This is not what CEQA requires. Instead, mitigation measures must be capable of avoiding or minimizing the actual impacts of the project. (See Ibid.) Please also refer to Standard Response FB-Response-GENERAL-22.

The commenter also states that the EIR/EIS does not mitigate for current-year-plus-project impacts. This is also incorrect. The EIR/EIS recommends numerous traffic

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mitigation measures that are based on the Existing Conditions Plus Project analysis (e.g., see Table 3.2-39, Table 3.2-41, Table 3.2-43, Table 3.2-45, Table 3.2-47, Table 3.2-49, Table 3.2-49) and project design features as construction period avoidance and minimization measures (see Section 3.2.6, Project Design Features).

BO030-3

The commenter asserts that the EIR/EIS lacks evidence to support the trip generation assumptions utilized for the Project's operational transportation impact analysis. The commenter is incorrect. Daily and peak-hour traffic from the proposed project was estimated based on modeling performed by Cambridge Systematics, using factors such as regional and local population forecasts, employment, and trip generation and distribution. The daily forecasted trips at each of the stations were used to determine how many station-related trips would occur during the peak hour. The forecasted daily trips at each of the stations were distributed on the transportation network based on the results of the regional travel demand models and access to and from the proposed station areas. Trip generation assumed that 15% of the total daily trips would occur during the peak hour. This assumption is reasonable because approximately 15% of train arrivals/departures would occur during the peak hours. Further, the use of 15% of total daily peak hour trip as the trip generation rate provided a conservative, worst-case evaluation of impacts to the Station Area study intersections because the maximum growth in traffic was assumed on local streets (Existing and year 2035 conditions) combined with the trains carrying the most passengers (Existing and year 2035 conditions), during the local peak traffic congestion period (15% of the total daily volumes). Assuming the trains are occupied at full capacity provides the highest amount of vehicles added to the system from HST passenger arrivals and departures (includes those parking, kiss-n-ride, bus).

The commenter is incorrect in stating that there would "only be two trains per day in the early years". As stated in Section 2.6 Operation and Service Plan of Chapter 2.0 Alternatives, every station on the HST network would be served by at least two trains per hour per direction throughout the day, and at least three trains per hour during the morning and afternoon peak periods. The peak hours would provide one additional train per hour.

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The Fresno, Kings/Tulare Regional, and Bakersfield stations would see a mix of stopping trains and through trains peaking for the full system. In 2035 for the high-ridership scenario, the full system would see four trains an hour stop at Fresno in each direction at the peak, and six trains run through. At the off-peak the same number of stops would be made, but the through trains would drop to three per hour. At the Kings/Tulare Regional Station, four trains would stop each hour per direction at the peak, with six running through. At the off-peak, four trains would stop at the station. At the Bakersfield Station, four trains would stop each hour per direction at the peak, with six running through. At the off-peak, four trains would stop in Bakersfield. For more detail, see Appendix 2-C, Operations and Service Plan Summary.

BO030-4

Section 3.2.6 Project Design Features of the EIR/EIS has been revised to include Project Design Feature #12, Off Peak Hour employee Work shift changes at HMF. As stated in Design Feature #12 , employee work shifts for the HMF facilities will be timed to not coincide with local peak hour periods. When the HMF employees arrive and depart, they will do so during a non-peak period for local traffic, and the total volumes on the roads during shift changes will be less than occurs during the local peak periods. The use of a 10% factor for project-related traffic contributing to the peak period was a worst-case assumption to account for other project-related non-work-shift trips, such as truck deliveries, this was calculated to be 300 trips per peak hour. The commenter is correct in stating that a shift change could have up to 1000 trips (500 employees arriving and 500 employees departing) three times per day, however this would not occur during the local peak hours for a HMF, as stated in Design Feature #12 of Section 3.2.6 within the Final EIR/EIS.

BO030-5

The commenter is correct in stating that a shift change could have up to 1000 trips (500 employees arriving and 500 employees departing) three times per day, however this would not occur during the local peak hours for a HMF as stated in Project Design Feature #12 oin Section 3.2.6 of the Final EIR/EIS. The use of a 10% factor for project-related traffic contributing to the peak period was a worst-case assumption to account for other project-related non-work-shift trips, such as truck deliveries, this was calculated to be 300 trips per peak hour. The analysis included a factor of two percent (2%) of the

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BO030-5

volume as heavy vehicles (non-employee personal vehicle).

BO030-6

The HST project is a federal and state project, and therefore not required to meet the City of Bakersfield level of service(LOS) standards. CEQA grants agencies discretion to develop their own thresholds of significance. (CEQA Guidelines, § 15064, subd. (d); Save Cuyama Valley v. County of Santa Barbara __Cal.App.4th__ (Jan. 10, 2013) (Case No. B23318).) The general criterion of "an increase in traffic that is substantial in relation to the existing traffic load and capacity" is applicable to the project-level analysis, as follows: To appropriately apply this general criterion to detailed analysis of each specific roadway system element (i.e., roadway segments, signalized intersections, and unsignalized intersections), the existing local standards and thresholds used in traffic analyses for potential station locations in 26 cities within 16 counties were examined. With that information, uniform, specific methods and criteria for traffic analysis of each roadway system element were derived at the level of detail necessary for project analysis. These include deterioration in LOS to below D, addition of 0.04 to the volume-to-capacity (V/C) ratio for roadway segments already operating or projected to operate at LOS E or F (i.e., urban areas where a majority of the HST stations are anticipated to be located), and increase in delay of 4 seconds at signalized intersections and of 5 seconds at unsignalized intersections.

BO030-7

The commenter notes that the EIR/EIS states that the Fresno-Yosemite International Airport (FAT) has provided commercial passenger flights as of July 2010 to Sacramento, Los Angeles, and San Diego. The commenter also notes that FAT has provided commercial air service for over 50 years. While FAT has provided commercial air services to other destinations for some years, the EIR/EIS correctly notes that FAT has provided commercial passenger flights to Sacramento, Los Angeles, and San Diego since July 2010. For the purposes of evaluating the Project's transportation impacts, the EIR/EIS discusses airport service to cities that have proposed HST Stations because the HST could have ridership impacts on enplanements to these destinations.

The EIR/EIS determines it relevant to only discuss impacts to airport services to cities that have proposed HST stations for the purpose of discussing HST ridership impacts on

BO030-7

enplanements (See the Aviation Element within Section 3.2.5). The EIR/EIS does however, discuss FAT, Fresno Chandler Executive Airport, Hanford Municipal Airport, Bakersfield Meadows Field and the Bakersfield Municipal Airport. The EIR/EIS does not discuss the Visalia Municipal Airport due to lack of immediate proximity to the Hanford Stations. Sierra Sky Park is not a commercial airport, but has been added to the Affected Environment section of Chapter 3.2.

BO030-8

Study Area intersections were determined in accordance with the City of Fresno traffic study guidelines and through discussions with the City of Fresno's Public Works Department's Traffic Operation Section.

BO030-9

Potential Fresno Station footprints are depicted on Figures 3.2-6 through 3.2-9 of the Final EIR/EIS.

BO030-10

Kings/Tulare Regional Station footprints are depicted on Figures 3.2-10 through 3.2-17 of the Final EIR/EIS.

BO030-11

Potential Bakersfield Station footprints are depicted on Figures 3.2-18 through 3.2-21 of the Final EIR/EIS.

BO030-12

As previously discussed, the commenter notes that the EIR/EIS states that the Fresno-Yosemite International Airport (FAT) has provided commercial passenger flights as of July 2010 to Sacramento, Los Angeles, and San Diego. The commenter also notes that FAT has provided commercial air service for over 50 years. While FAT has provided commercial air services to other destinations for some years, the EIR/EIS correctly notes that FAT has provided commercial passenger flights to Sacramento, Los Angeles, and San Diego since July 2010. For the purposes of evaluating the Project's transportation impacts, the EIR/EIS discusses airport service to cities that have

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BO030-12

proposed HST Stations because the HST could have ridership impacts on enplanements to these destinations.

The EIR/EIS determines it relevant to only discuss impacts to airport services to cities that have proposed HST stations for the purpose of discussing HST ridership impacts on enplanements (See the Aviation Element within Section 3.2.5). The EIR/EIS does however, discuss FAT, Fresno Chandler Executive Airport, Hanford Municipal Airport, Bakersfield Meadows Field and the Bakersfield Municipal Airport. The EIR/EIS does not discuss the Visalia Municipal Airport due to lack of immediate proximity to the Hanford Stations. Sierra Sky Park is not a commercial airport, but has been added to the Affected Environment section of Chapter 3.2.

BO030-13

Although the Project could reduce as many as 300,000 passengers a year who might use intrastate air service at the Fresno-Yosemite International Airport (FAT) and the Meadows Field Airport in Bakersfield (BFL), the reduction in flight passengers is not expected to lead to physical changes in the environment resulting in any significant environmental impact. (See CEQA Guidelines, § 15131(a)-(b) (economic and social impacts are not, by themselves, environmental impacts under CEQA.) Rather, as discussed in Impact TR#10, the diversion of air travel would meet the purpose and need of the HST project and would be a beneficial aspect of the project. Based on the page number (3.2-39) cited by the commenter, the comment is based on analysis provided within the DEIR/DEIS. The Aviation Element analysis was updated within the Revised DEIR/Supplemental DEIS (3.2-63/64). The commenters reference of “a reduction of over 35%” is not mentioned in either version of the Aviation Element.

The Statewide High-Speed Rail ridership model projected where trips would be diverted and whether the diversions would be from automobiles or airplane trips; an estimated 23% of passengers at the Fresno and Bakersfield airports would be diverted to HST within the San Joaquin Valley (Authority 2012a). The diversion of air travel would meet the purpose and need of the HST project. Availability of cost-effective travel mode alternatives is a benefit to the passenger. Hence, this would be a beneficial aspect of the project and is consistent with the goals set for the project.

BO030-14

Page 3.2-39 of the Draft EIR/EIS does not discuss aviation. A summary of existing and projected aviation conditions under the No Project Alternative is provided on page 3.2-40. That discussion indicates that the Airport Master Plan forecasted 852,000 annual emplanements by 2025. The discussion goes on to say: "Possibly as many as 300,000 passengers a year who might use intrastate air service, if available and competitively priced, instead are making auto trips to their destination or to other state airports." This is a statement of the possible additional demand for air service in the Fresno area if that service was available and competitively priced. This has nothing to do with potential project impacts.

Page 3.2-48 of the Draft EIR/EIS describes project impacts to air travel at Bakersfield and Fresno. The document states: "The HST would compete and would be expected to draw an estimated 16 travelers/day that would otherwise take a plane from or to Kern County (Meadows Field), and one flight is predicted to divert from the Fresno/Madera area Airport." Fresno Yosemite International Airport currently has 37 departures/day (http://www.flyfresno.com/). A reduction of one flight per day would not have dramatic economic consequences. Except for a small increase in commercial airline departures in 2008, there has been a steady decline in departures from the Fresno Yosemite International Airport over the past 7 years. The number of annual departures from the airport totaled 18,493 in 2006 and 12,975 in 2012, a reduction of about 30%. In addition, the HST will provide additional outlets for rental car agencies and vendors.

BO030-15

Refer to Standard Response FB-Response-GENERAL-12.

Impacts to conventional passenger rail, including Amtrak, is are discussed in Impact TR #10 – Impacts on the Regional Transportation System on the Final EIR/EIS. As explained therein, as HST ridership increases, it is likely that Amtrak San Joaquin rail service would improve as the Sacramento San Joaquin line would connect and/or provide direct service to existing markets between HST stations and/or markets not served by HST.

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BO030-15

The San Joaquin Corridor Strategic Plan (Caltrans 2008) recognizes that current Amtrak passenger trains have the opportunity to interface with the HST System and serve as a collector/distributor, and contribute to a program of improvements that will increase rail ridership, revenue, capacity, and reliability within the corridor. Joint stations at major cities such as Fresno, Bakersfield, Sacramento and Merced would become interchange points that will allow for passengers to transfer to and from Amtrak to the HST System. Also, during HST construction, the opportunity exists for Amtrak to "bridge" service in different regions, such as between the Bay Area and Merced, and between Los Angeles and Palmdale. The economic benefits of enhanced mobility throughout the state will contribute to Amtrak's strategic plan to increase ridership and revenue.

BO030-16

Since the beginning of the HSR program, impacts on properties and property owners' interests have been considered a point of mutual agreement to be negotiated between the Authority and the property interests. Detailed right-of-way/access analysis will be conducted during the right-of-way appraisal process. Although the HST alternatives will require acquisition of existing freight rail property, they will not encroach on the freight rail operating corridors. The Authority has committed to not encroach onto freight rail operations. No permanent intrusion into the freight rail corridors is proposed. Therefore, no direct or secondary environmental effects (i.e., freight being moved by trucks rather than rail) would occur. Through the July 2012 MOU between the two parties and the related Engineering, Construction, and Maintenance Agreement, the Authority and Union Pacific Railroad will ensure that the HSR alignment does not encroach into the Union Pacific Railroad right-of-way. Burlington Northern will be consulted similarly.

BO030-17

Regional Change to the Aviation System text was changed within the Revised DEIR/Supplemental DEIS to state that Chapter 1.0, Project Purpose, Need, and Objectives, describes air travel service at Fresno-Yosemite International Airport and Meadows Field Airport in Bakersfield. Fares for travel from these airports to San Francisco or Los Angeles are relatively high, especially with respect to the cost of travel by automobile. The HST alternatives would divert trips from air travel, primarily from FAT. The Statewide High-Speed Rail ridership model projected where trips would be diverted and whether the diversions would be from automobiles or airplane trips; an

BO030-17

estimated 23% of passengers at the Fresno and Bakersfield airports would be diverted to HST within the San Joaquin Valley (Authority 2012a). The diversion of air travel would meet the purpose and need of the HST project. Availability of cost-effective travel mode alternatives is a benefit to the passenger. Hence, this would be a beneficial aspect of the project and is consistent with the goals set for the project. HST would improve airport efficiencies (fewer interstate and international flight delays) by providing an alternate mode of transportation for outlying cities to connect with the big city airports, other than short trip flights.

BO030-18

Regional Change to the Aviation System text was changed within the Revised DEIR/Supplemental DEIS to state that Chapter 1.0, Project Purpose, Need, and Objectives, describes air travel service at Fresno-Yosemite International Airport and Meadows Field Airport in Bakersfield. Fares for travel from these airports to San Francisco or Los Angeles are relatively high, especially with respect to the cost of travel by automobile. The HST alternatives would divert trips from air travel, primarily from FAT. The Statewide High-Speed Rail ridership model projected where trips would be diverted and whether the diversions would be from automobiles or airplane trips; an estimated 23% of passengers at the Fresno and Bakersfield airports would be diverted to HST within the San Joaquin Valley (Authority 2012a). The diversion of air travel would meet the purpose and need of the HST project. Availability of cost-effective travel mode alternatives is a benefit to the passenger. Hence, this would be a beneficial aspect of the project and is consistent with the goals set for the project.

Page 3.2-48 of the Draft EIR/EIS describes project impacts to air travel at Bakersfield and Fresno. The document states: "The HST would compete and would be expected to draw an estimated 16 travelers/day that would otherwise take a plane from or to Kern County (Meadows Field), and one flight is predicted to divert from the Fresno/Madera area Airport." Fresno Yosemite International Airport currently has 37 departures/day (http://www.flyfresno.com/). A reduction of one flight per day would not have dramatic economic consequences. Except for a small increase in commercial airline departures in 2008, there has been a steady decline in departures from the Fresno Yosemite International Airport over the past 7 years. The annual departures from the airport totaled 18,493 in 2006 and 12,975 in 2012, a reduction of about 30%. In addition, the

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BO030-18

HST will result in positive economic consequences by providing additional outlets for rental car agencies and vendors.

BO030-19

Refer to Standard Response FB-Response-GENERAL-12.

BO030-20

Contrary to the commenter's suggestion, CEQA does not require a lead agency to engage in speculation. CEQA Guidelines section 15145 provides that "[i]f, after a thorough investigation, a lead agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact." Here, as explained in the Revised DEIR/Supplemental DEIS (Impact TR # 1) intercity bus service is likely to change as a result of the introduction of HST service. Many riders could switch to HST service, although the bus service pricing might help retain some riders. However, there would also be a potential new market providing feeder service to HST. The bus service providers (including Greyhound and Amtrak Thruway) are likely to revise their current operation to better address this market. The extent and manner to which existing intra-city transit provides would revise their current operations is not known at this time.

BO030-21

Since the beginning of the HSR program, impacts on properties and property owners' interests have been considered a point of mutual agreement to be negotiated between the Authority and the property interests. Detailed right-of-way/access analysis will be conducted during the right-of-way appraisal process. Although the HST alternatives will require acquisition of existing freight rail property, they will not encroach on the freight rail operating corridors. The Authority has committed to not encroach onto freight rail operations. No permanent intrusion into the freight rail corridors is proposed. Therefore, no direct or secondary environmental effects (i.e., freight being moved by trucks rather than rail) would occur. Through the July 2012 MOU between the two parties and the related Engineering, Construction, and Maintenance Agreement, the Authority and Union Pacific Railroad will ensure that the HSR alignment does not encroach into the Union Pacific Railroad right-of-way. Burlington Northern will be consulted similarly.

BO030-22

Refer to Standard Response FB-Response-TR-02.

BO030-23

As stated in Appendix 2-A, Road Crossings of the EIR/EIS, the Corcoran Elevated Alternative proposes to relocate the ramp of SR 43 slightly to the south and realign the ramp so that it will avoid the location of the proposed HST aerial structure. A portion of Santa Fe Avenue would be closed, traffic would access SR 43 via 5½ Avenue off of Orange Avenue. Impacts would be less than significant because to the ramp would be relocated and the portion of SR-43 has proposed to be closed contains very low traffic volumes.

Right-of-way acquisition has yet to occur, so loss of access from any road relocation or closing has yet to be determined. If it is determined property has lost access, Mitigation Measure TR MM#1 would be implemented.

BO030-24

The description of the impacts associated with the Corcoran Bypass Alternative road closures is provided on Page 3.2-75 as part of the Impact TR#11. The Revised DEIR/Supplement DEIS states that the impacts were determined to be less than significant under CEQA and of negligible intensity under NEPA because the traffic volumes on the roads proposed for closure were generally less than 500 vehicles per day and detours would be limited in rural areas resulting in small effects to traffic circulation. The impacts on loss of property access are described under Impact TR #12 as indicated in the comment.

Please refer to Table 3.2-59 Summary of Potential Impacts on Transportation Resource. Within in the table, the row for TR #12 Loss of Property Access as a Result of Road Closures, states a Significant CEQA Level of Significance before Mitigation that is mitigated to Less than Significant by TR MM#1: Access Maintenance for Property Owners.
TR MM #1 is more fully described on Page 3.2-128.

With regard to implementation and feasibility of Mitigation Measure TR MM#1, this

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mitigation measure requires property access to be maintained to pre-project viability if feasible, and if not, for the property to be considered for acquisition. If acquisition is the only feasible means to reduce this impact, the project design features described in Section 3.12.10 to minimize displacement impacts and the mitigation measures set forth in Section 3.12.11 would be implemented. (See FB-Response-SO-01, Acquisition, Displacements, and Relocation, for further detail.) Implementation of these measures will ensure that the property owner will be put in the same or similar position as the property owner would be without the project. As such, the project will not result in a significant and unavoidable impact regarding property access. To the extent that property acquisition is required, and that such acquisition could result in other impacts, such as the physical division of an existing community, those impacts are discussed and mitigated for in other sections of the RDEIR/SDEIS, as applicable. (See e.g., Section 3.12). Notably, moreover, although the RDEIR/SDEIS conservatively considered the project's potential impacts on property access and recommended mitigation measures to substantially reduce or avoid that impact, access constraint is not an environmental impact under CEQA. (See CEQA Guidelines, § 15131, subd. (a); San Franciscans Upholding the Downtown Plan v. City and County of San Francisco (2002) 102 Cal.App.4th 667 (social impacts are not environmental impacts under CEQA).

BO030-25

Refer to Standard Response FB-Response-TR-02.

The description of the impacts associated with the Allensworth Bypass Alternative road closures is provided on Page 3.2-76 as part of the Impact TR#11 discussion. The Revised DEIR/Supplement DEIS states that the impacts were determined to be less than significant under CEQA and of negligible intensity under NEPA because the traffic volumes on the roads proposed for closure were generally less than 500 vehicles per day and detours would be limited in rural areas resulting in small effects to traffic circulation. The impacts on loss of property access are described under Impact TR #12 as indicated in the comment.

Please refer to Table 3.2-59 Summary of Potential Impacts on Transportation Resource. Within in the table, the row for TR #12 Loss of Property Access as a Result of Road Closures, states a Significant CEQA Level of Significance before Mitigation that is

BO030-25

mitigated to Less than Significant by TR MM#1: Access Maintenance for Property Owners.
TR MM #1 is more fully described on Page 3.2-128.

With regard to implementation and feasibility of Mitigation Measure TR MM#1, this mitigation measure requires property access to be maintained to pre-project viability if feasible, and if not, for the property to be considered for acquisition. If acquisition is the only feasible means to reduce this impact, the project design features described in Section 3.12.10 to minimize displacement impacts and the mitigation measures set forth in Section 3.12.11 would be implemented. (See FB-Response-SO-01, Acquisition, Displacements, and Relocation, for further detail.) Implementation of these measures will ensure that the property owner will be put in the same or similar position as the property owner would be without the project. As such, the project will not result in a significant and unavoidable impact regarding property access. To the extent that property acquisition is required, and that such acquisition could result in other impacts, such as the physical division of an existing community, those impacts are discussed and mitigated for in other sections of the RDEIR/SDEIS, as applicable. (See e.g., Section 3.12). Notably, moreover, although the RDEIR/SDEIS conservatively considered the project's potential impacts on property access and recommended mitigation measures to substantially reduce or avoid that impact, access constraint is not an environmental impact under CEQA. (See CEQA Guidelines, § 15131, subd. (a); San Franciscans Upholding the Downtown Plan v. City and County of San Francisco (2002) 102 Cal.App.4th 667 (social impacts are not environmental impacts under CEQA).

BO030-26

Refer to Standard Response FB-Response-TR-02.

The description of the impacts associated with the Wasco-Shafter Bypass Alternative road closures is provided on Page 3.2-76 as part of the Impact TR#11 discussion. The Revised DEIR/Supplement DEIS states that the impacts were determined to be less than significant under CEQA and of negligible intensity under NEPA because the traffic volumes on the roads proposed for closure were generally less than 500 vehicles per day and detours would be limited in rural areas resulting in small effects to traffic circulation. The impacts on loss of property access are described under Impact TR #12

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BO030-26

as indicated in the comment.

Please refer to Table 3.2-59 Summary of Potential Impacts on Transportation Resource. Within in the table, the row for TR #12 Loss of Property Access as a Result of Road Closures, states a Significant CEQA Level of Significance before Mitigation that is mitigated to Less than Significant by TR MM#1: Access Maintenance for Property Owners.
TR MM #1 is more fully described on Page 3.2-128.

With regard to the implementation and feasibility of Mitigation Measure TR MM#1, the mitigation measure requires property access to be maintained to pre-project viability if feasible, and if not, for the property to be considered for acquisition. If acquisition is the only feasible means to reduce this impact, the project design features described in Section 3.12.10 to minimize displacement impacts and the mitigation measures set forth in Section 3.12.11 would be implemented. (See FB-Response-SO-01, Acquisition, Displacements, and Relocation, for further detail.) Implementation of these measures will ensure that the property owner will be put in the same or similar position as the property owner would be without the project. As such, the project will not result in a significant and unavoidable impact regarding property access. To the extent that property acquisition is required, and that such acquisition could result in other impacts, such as the physical division of an existing community, those impacts are discussed and mitigated for in other sections of the RDEIR/SDEIS, as applicable. (See e.g., Section 3.12). Notably, moreover, although the RDEIR/SDEIS conservatively considered the project's potential impacts on property access and recommended mitigation measures to substantially reduce or avoid that impact, access constraint is not an environmental impact under CEQA. (See CEQA Guidelines, § 15131, subd. (a); San Franciscans Upholding the Downtown Plan v. City and County of San Francisco (2002) 102 Cal.App.4th 667 (social impacts are not environmental impacts under CEQA).

BO030-27

Refer to Standard Response FB-Response-TR-02.

The description of the impacts associated with the Bakersfield South Alternative road closures is provided on Page 3.2-77 as part of the Impact TR#11 discussion. The

BO030-27

Revised DEIR/Supplement DEIS states that the impacts were determined to be less than significant under CEQA and of negligible intensity under NEPA because the traffic volumes on the roads proposed for closure were generally less than 500 vehicles per day and detours would be limited in rural areas resulting in small effects to traffic circulation. The impacts on loss of property access are described under Impact TR #12 as indicated in the comment.

Please refer to Table 3.2-59 Summary of Potential Impacts on Transportation Resource. Within in the table, the row for TR #12 Loss of Property Access as a Result of Road Closures, states a Significant CEQA Level of Significance before Mitigation that is mitigated to Less than Significant by TR MM#1: Access Maintenance for Property Owners.
TR MM #1 is more fully described on Page 3.2-128.

With regard to the implementation and feasibility of Mitigation Measure TR MM#1, this mitigation measure requires property access to be maintained to pre-project viability if feasible, and if not, for the property to be considered for acquisition. If acquisition is the only feasible means to reduce this impact, the project design features described in Section 3.12.10 to minimize displacement impacts and the mitigation measures set forth in Section 3.12.11 would be implemented. (See FB-Response-SO-01, Acquisition, Displacements, and Relocation, for further detail.) Implementation of these measures will ensure that the property owner will be put in the same or similar position as the property owner would be without the project. As such, the project will not result in a significant and unavoidable impact regarding property access. To the extent that property acquisition is required, and that such acquisition could result in other impacts, such as the physical division of an existing community, those impacts are discussed and mitigated for in other sections of the RDEIR/SDEIS, as applicable. (See e.g., Section 3.12). Notably, moreover, although the RDEIR/SDEIS conservatively considered the project's potential impacts on property access and recommended mitigation measures to substantially reduce or avoid that impact, access constraint is not an environmental impact under CEQA. (See CEQA Guidelines, § 15131, subd. (a); San Franciscans Upholding the Downtown Plan v. City and County of San Francisco (2002) 102 Cal.App.4th 667 (social impacts are not environmental impacts under CEQA).

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BO030-28

The station area is defined in greater detail in Section 2.4, Alignments, Station, and Heavy Maintenance Facility Alternatives Evaluated in this Project EIR/EIS. The proposed Fresno HST alternative station sites are located in the area bounded by Merced and Santa Clara streets to the southeast, and by G and H streets. The study area is regionally served by State Route (SR) 41, SR 99, and SR 180, and locally by a connecting grid pattern of expressways, arterials, collector roads, and local roads. The Marispoa and Kern Alternatives are located within these boundaries.

BO030-29

Refer to Standard Response FB-Response-GENERAL-22.

Please see responses to comments 2053 and 2054.

BO030-30

Refer to Standard Response FB-Response-GENERAL-22.

Please see responses to comments 2053 and 2054.

BO030-31

Parking was inventoried and reported in the technical report prepared for the project. Refer to the *Fresno to Bakersfield Section: Transportation Analysis Technical Report* (Authority and FRA 2012n) for specific details of the parking structure locations and number of available parking spaces.

The Revised DEIR/Supplemental DEIS explains existing and projected parking requirements. In particular, Impact TR # 10 explains that Fresno currently has a large amount of excess public parking within 1 mile of the Fresno station site and that 5,850 parking spaces would be necessary in 2020, and 7,400 would be required in 2035.

Parking, by itself is not considered an environmental impact under CEQA. As stated by the court San Franciscans Upholding the Downtown Plan v. City and County of San Francisco (2002)102 Cal.App.4th 656, 698: "[T] here is no statutory or case authority requiring an EIR to identify specific measures to provide additional parking spaces in

BO030-31

order to meet an anticipated shortfall in parking availability. The social inconvenience of having to hunt for scarce parking spaces is not an environmental impact; the secondary effect of scarce parking on traffic and air quality is. Under CEQA, a project's social impacts need not be treated as significant impacts on the environment. An EIR need only address the secondary physical impacts that could be triggered by a social impact." (Emphasis original.) (See also, CEQA Guidelines, § 15131(a).) Notably, in 2010, the California Natural Resources Agency amended the Appendix G of the CEQA Guidelines to delete parking adequacy from the checklist. Also, because there will be adequate parking to serve the Project and projected parking demands, there would not be any indirect impacts, such as air quality or traffic impacts, resulting from the Project's effects on parking.

BO030-32

The Authority would work with local jurisdictions and other stakeholders to phase the parking supply to support HST ridership demand and the demand of other uses in the vicinity of the station. As discussed in Section 2.2.3 of the Revised DEIR/Supplemental DEIS: "Parking demand expectations are based on HST system ridership forecasts where parking availability is assumed to be unconstrained – meaning 100% of parking demand is assumed to be met. These projections provide a "high" starting point to inform discussions with cities where stations are proposed. While this EIR/EIS identifies locations for parking facilities needed to satisfy the maximum forecast demand, parking is anticipated to be developed over time in phases, while also prioritizing access to the HST system through other modes such as transit, which could lead to less parking being necessary.

The rationale for how parking would be met by the system is discussed in Chapter 2, Alternatives. The relatively lower number of spaces in Bakersfield is because of a higher availability of nearby parking, as opposed to the other stations. As described in this section for Fresno parking, the balance of the supply necessary to accommodate the full 2035 parking demand (7,400 total spaces) would be provided through use of underutilized facilities around the station and in Downtown Fresno. Identification of these additional spaces would be coordinated with the City of Fresno as a part of a comprehensive parking strategy. Additional environmental review may be necessary as parking needs are identified for full system operations. It is assumed that any new

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BO030-32

projects or developments approved within the City of Fresno would be require to satisfy any parking requirements pursuant to City of Fresno development or permitting codes.

BO030-33

The specific language of "1 mile" is actually a typographical error within the RDEIR/RSEIS, and the correct distance of "0.5 mile" was corrected on page 3.2-23 in the Affected Environment Section of the EIR/EIS. For further information on the specific parking lots used in the analysis, refer to the Fresno to Bakersfield Section: Transportation Analysis Technical Report (Authority and FRA 2013) for specific details of the parking structure locations and number of available parking spaces, specifically within Section 4.2.9 Parking Facilities and in Figure 4.2-8. As shown on Figure 4.2-8, Lot K, the convention center parking location on Inyo street is furthest away from the proposed HST Station. Impact TR #13 – Impacts on the Local Roadway Network due to Station Activity has been updated in the FEIR/FEIS to state "0.5 mile." The station will also provide Kiss-and-Ride areas, where riders could drop off luggage and passengers before parking their vehicle.

The FEIR/FEIS does not state the HST intends to utilize all available parking within the city. The FEIR/FEIS states the it is conservatively estimated that 5,850 parking spaces would be required for the Fresno stations in 2020, and 7,400 would be required in 2035. Based on (and in combination with) the amount of excess public parking within 0.5 mile of the station, it is estimated that 2035 parking demand can be met with a total of 5,000 parking spaces provided in four new parking structures built adjacent to the station by 2035. All four structures would not be necessary when the station opens in 2020. Instead, parking would be provided as demand requires. When Fresno Station opens in 2020, a combination of parking structures and surface parking lots with about 3,500 spaces would be constructed adjacent to the station. The Authority will not preclude any government entity or private enterprise from providing transit service from the auxiliary parking areas.

The similarities between airport parking and an HST Station parking are small. There are few airports that are located within the downtown urban core of a city, because airplanes require much more land to take off from and land. Unless there is a pre-existing transit service to an airport, people must drive cars there. Because airport

BO030-33

footprints are vastly larger than that of proposed HST Stations, overflow lots are often constructed at distance miles away from a terminal entrance, requiring the use of a tram or shuttle. Existing urban cores typically have fewer opportunities for large parking facilities, but much greater opportunities for transit, shared-ride, and pedestrian connections and can accommodate direct station service.

BO030-34

Chapter 3.2, subheading, Bakersfield Parking Impacts, of the EIR/EIS states that station parking areas would accommodate approximately 2,300 parking spaces at the Bakersfield Station and that the relatively lower number of spaces in Bakersfield is because of a higher availability of nearby parking, as opposed to the other stations. As described in Chapter 2, Alternatives, for Bakersfield parking, the balance of the supply necessary to accommodate the full 2035 parking demand (8,100 total spaces) would be provided through use of underutilized facilities around the station and in Downtown Bakersfield. This total of 8,100 spaces would provide 1.76 spaces per vehicle trip, not the 0.52 that the commenter suggests.

The Authority will work with local jurisdictions and other interested parties to phase the parking supply to support HST ridership demand and the demand of other uses in the vicinity of the station. As discussed in Section 2.2.3 of the Revised DEIR/Supplemental DEIS: "Parking demand expectations are based on HST system ridership forecasts where parking availability is assumed to be unconstrained – meaning 100% of parking demand is assumed to be met. These projections provide a "high" starting point to inform discussions with cities where stations are proposed. While this EIR/EIS identifies locations for parking facilities needed to satisfy the maximum forecast demand, parking is anticipated to be developed over time in phases, while also prioritizing access to the HST System through other modes such as transit, which could lead to less parking being necessary."

BO030-35

The Authority will work with local jurisdictions and other interested parties to phase the parking supply to support HST ridership demand and the demand of other uses in the vicinity of the station. As discussed in Section 2.2.3 of the Revised DEIR/Supplemental DEIS: "Parking demand expectations are based on HST system ridership forecasts

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where parking availability is assumed to be unconstrained – meaning 100% of parking demand is assumed to be met. These projections provide a "high" starting point to inform discussions with cities where stations are proposed. While this EIR/EIS identifies locations for parking facilities needed to satisfy the maximum forecast demand, parking is anticipated to be developed over time in phases, while also prioritizing access to the HST System through other modes such as transit, which could lead to less parking being necessary." The rationale for how parking would be met by the system is discussed in Chapter 2, Alternatives. As described in this section for Kings/Tulare Regional Station-East Alternative parking, the balance of the supply necessary to accommodate the full 2035 parking demand (2,800 total spaces) would be accommodated in downtown Hanford, Visalia, and/or Tulare, with local transit or shuttle services connecting with the station. Reducing the number of parking spaces provided at the station would allow for more open space areas, discourage growth at the station, encourage revitalization of the downtowns of Hanford, Visalia, and/or Tulare, and contain the development footprint of the station. Identification of these additional spaces would be coordinated with the local cities and county as a part of a comprehensive parking strategy. Additional environmental review may be necessary as parking needs are identified for full system operations. For the Kings/Tulare Regional Station-West Alternative, the site would support a surface parking lot with approximately 700 spaces and two parking structures with a combined parking capacity of 2,100 spaces.

BO030-36

The HST project is a federal and state project, and therefore not required to meet the City of Bakersfield level of service (LOS) standards. The general criterion of "an increase in traffic that is substantial in relation to the existing traffic load and capacity" is applicable to the project-level analysis, as follows: To appropriately apply this general criterion to detailed analysis of each specific roadway system element (i.e., roadway segments, signalized intersections, and unsignalized intersections), the existing local standards and thresholds used in traffic analyses for potential station locations in 26 cities within 16 counties were examined. With that information, uniform, specific methods and criteria for traffic analysis of each roadway system element were derived at the level of detail necessary for project analysis. These include deterioration in LOS to below D, addition of 0.04 to the volume-to-capacity (V/C) ratio for roadway segments already operating or projected to operate at LOS E or F (i.e., urban areas where a

BO030-36

majority of the HST stations are anticipated to be located), and an increase in delay of 4 seconds at signalized intersections and of 5 seconds at unsignalized intersections.

Refer to Tables 3.2-28 and 3.2-29 of the Final EIR/EIS for existing plus project operating conditions with the City of Bakersfield.

BO030-37

The comment refers to text included in the Draft EIR/EIS. The text was modified in the Revised DEIR/Supplemental DEIS to clarify that the impact discussion refers to freight rail impacts in Bakersfield.

BO030-38

The incorrect text referencing the year 2035 was corrected in the Revised DEIR/Supplemental DEIS (Page 3.2-117) to state "Existing and Existing Plus Project Conditions". The table referenced in the comment is now Table 3.2-33 in the Final EIR/EIS. Per the analysis in the Final EIR/EIS, as stated in Table 3.2-33, HMF Intersection Analysis (Existing Plus Project), three of the studied intersections (Fresno HMF #2 and #11 and Wasco HMF #1) would be adversely affected by additional traffic from the HMF project, where either there is a change in LOS to E or F, or, where an intersection is operating at LOS E or F, the delay would increase by 4 seconds or more.

In the Final EIR/EIS, Table 3.2-47, Existing Plus Project Mitigation Measures – Fresno Heavy Maintenance Facility Site, the following mitigation is proposed: SR 99 southbound off-ramp/E. Central Avenue (#2): Install a traffic signal at the intersection, and S. Clovis Avenue/SR 99 southbound on-ramp (#11): Install a traffic signal at the intersection. In Table 3.2-51, Existing Plus Project and Future (2035) Plus Project Mitigation Measures - Wasco Heavy Maintenance Facility Site, the following mitigation is proposed: SR 99 southbound off-ramp/E. Central Avenue (#2): Install a traffic signal at the intersection.

With implementation of the proposed mitigation measures: Fresno HMF Int ID #2 would operate at LOS B in the AM, Fresno Int ID #11 would operate at LOS A in the AM and PM, and Wasco HMF Int ID #1 would operate at LOS A in the AM and PM (Table 3.2-33 in this Final EIR/EIS). This would result in a less-than-significant impact on traffic.

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BO030-39

As explained in Section 3.2.8 of the Revised DEIR/Supplemental DEIS, mitigation measures adopted in connection with the program EIR are part of the project and the Authority and FRA have considered the avoidance and minimization measures set forth in the program EIR/EIS in devising the project specific mitigation measures presented in the Revised DEIR/Supplemental DEIS. The mitigation measures identified in the Revised DEIR/Supplemental DEIS are consistent with the mitigation strategies set forth in the programmatic document. For instance, the 2005 Program EIR/EIS identified strategies, such as roadway widening, installation of new traffic signals, and improved capacity of local streets with upgrade geometrics as potential local strategies that could be implemented to avoid or minimize the project's transportation impacts. (See 2005 Statewide Program Draft EIR/EIS (Authority and FRA, 2005), § 3.1.6.) Consistent with these recommendations, the Revised DEIR/Supplemental DEIS recommends site specific mitigation measures, such as adding signals to intersections, restriping intersections, and widening intersection approaches and roadways to mitigate the project's transportation impacts.

The mitigation measures identified in the Revised DEIR/Supplemental DEIS are intended to compensate for impacts that cannot be minimized or avoided. None of these mitigation measures will result in secondary significant impacts. If the project requires improvements to roadways or intersections, mitigation may result in impacts to the physical environment. Those impacts would include emissions and fugitive dust from construction equipment, construction-related noise, construction-related road closures or traffic and impacts to biological and cultural resources that may be present on the site of construction and potential permanent impacts to land use, agricultural lands and disadvantaged communities. Any new or expanded roadways or intersections would be designed and constructed to be consistent with local land use plans and an extensive construction management plan would be prepared, as described in Section 3.26, Project Design Features. For this reason, it is expected that impacts of mitigation would be less than significant under CEQA and the impact would have negligible intensity under NEPA. All the measures are physically feasible. In addition, the various cities and/or counties may implement some of these mitigation measures before the construction of the HST System because of planned development adjacent to affected intersections or roadways. Mitigation measures not in place before development of the HST construction

BO030-39

plans will be implemented by the Authority when the associated project element or aspect occurs that requires the mitigation. Table 3.2-59 of the Final EIR/EIS summarizes the implementation of mitigation measures and the CEQA Level of Significance after Mitigation.

BO030-40

Refer to Standard Response FB-Response-GENERAL-01.

Refer to Standard Response FB-Response-GENERAL-01, subsection "Level of Detail in Mitigation Measures."

The commenter takes issue with Mitigation Measure TR MM#1. The commenter cites the Draft EIR/EIS version of this mitigation measure. The mitigation measure, as revised by the RDEIR/SDEIS provides:
Maintain access for owners to property within the construction area to a level that maintains pre-project viability of the property for its pre-project use. If a proposed road closure restricts current access to a property, provide alternative access via connections to existing roadways. If adjacent road access is not available, prepare new road connections, if feasible. If road access is not feasible, the property will be considered for acquisition. This level of detail suggested by the commenter is not required. Under CEQA, where it is not possible to formulate the precise detail of a mitigation measure at the time a draft EIR is prepared, an agency may defer exact formulation of the mitigation measure by specifying specific performance standard(s) that will be achieved through the implementation of the mitigation measure and identifies means by which the performance standard could be achieved. (See CEQA Guidelines, § 15126.4(a)(1)(B); see also Save Cuyama Valley v. County of Santa Barbara __Cal.App.4th__ (Jan. 10, 2013) (Case No. B23318); Cal. Public Resources Code, § 21100, subd. (b)(3).) Here, Mitigation Measure TR MM #1 requires property access to be maintained to pre-project viability if feasible, and if not, for the property to be considered for acquisition. If acquisition is the only feasible means to reduce this impact, the project design features described in Section 3.12.10 to minimize displacement impacts and the mitigation measures set forth in Section 3.12.11 would be implemented. (See FB-Response-SO-01, Acquisition, Displacements, and Relocation, for further detail.) Implementation of these measures will ensure that the property owner will be put in the same or similar

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position as the property owner would be without the project. As such, the project will not result in a significant and unavoidable impact regarding property access. To the extent that property acquisition is required, and that such acquisition could result in other impacts, such as the physical division of an existing community, those impacts are discussed and mitigated for in other sections of the RDEIR/SDEIS, as applicable. (See e.g., Section 3.12). Notably, moreover, although the RDEIR/SDEIS conservatively considered the project's potential impacts on property access and recommended mitigation measures to substantially reduce or avoid that impact, access constraint is not an environmental impact under CEQA. (See CEQA Guidelines, § 15131, subd. (a); San Franciscans Upholding the Downtown Plan v. City and County of San Francisco (2002) 102 Cal.App.4th 667 (social impacts are not environmental impacts under CEQA).

BO030-41

Mitigation measures are connected to specific impact locations within Tables 3.2-44 to 3.2-58 of Section 3.2.8, Mitigation Measures, of the Final EIR/EIS. All impacts are reduced to a less-than-significant level with mitigation incorporated. Table 3.2-59 identifies the level of significance after mitigation for each of the significant transportation impacts identified in Section 3.2 of the Revised DEIR/Supplemental DEIS. Further, Table S-3 identifies each of the impacts identified in the Draft EIR/EIS, the mitigation measures identified for the impacts, and the level of significance after mitigation.

BO030-42

Please see responses to comments 2091 and 2093.

BO030-43

Along with a number of other technical reports, the Biological Resource and Wetland Technical Report is available for review on the Authority's website. These technical reports were posted to the Authority's website at the same time as the publication of the Revised DEIR/Supplemental DEIS. The Revised DEIR/Supplemental DEIS provides the information and the level of detail required under CEQA/NEPA. The technical report provides additional information in the event that the public would like to know more

BO030-43

about biological resources and wetlands than what is provided in the analysis presented in the Revised DEIR/Supplemental DEIS.

BO030-44

In response to your comment in Section 3.7, Biological Resources and Wetlands, the text of the Final EIR/EIS has been revised in Section 3.7.1.1 to include definitions of critical habitat, conservation areas, and wildlife movement corridors.

BO030-45

Figure 3.7-1, which provides a schematic of the various biological resource study areas, has been added to Section 3.7, Biological Resources and Wetlands, of the Final EIR/EIS.

BO030-46

Refer to Standard Response FB-Response-BIO-03.

Section 3.7.3.3, Field Surveys, has been revised in the Final EIR/EIS, in response to your comment to consistently present the month and year in which the surveys were conducted.

BO030-47

The text of the Final EIR/EIS in Section 3.7.3.4 has been revised to read Sections 3.7.3.5 and 3.7.3.6, respectively, in response to your comment in Section 3.7, Biological Resources and Wetlands.

BO030-48

Section 3.7.3.6 of the Revised DEIR/Supplemental DEIS identifies the thresholds used to define a significant impact on biological resources for the project. Additionally, this section identifies circumstances that would result in a significant impact and general indicators of significance. Section 3.7.3.6 in the Final EIR/EIS has been revised to address formatting issues.

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BO030-49

In response to this comment, Section 3.7.4, Affected Environment, describes in enough detail for most lay members of the public to understand the existing conditions of the study area. This section describes the wildlife habitat association, special-status species, habitats of concern, and wildlife movement corridors identified in the study area. Additional information related to these resources can be found, as referenced in the Revised DEIR/Supplemental DEIS in the Biological Resources and Wetlands Technical Report, available on the Authority's website.

Section 3.7.3.3 provides the survey methods and the survey dates that were used to present baseline conditions in Section 3.7.4 (Affected Environment). As such, the year referenced in this section reflects the baseline conditions for the particular resource. Where surveys were originally conducted in 2010, additional surveys were conducted as part of engineering changes and the introduction of new alignment alternatives. Those portions of the study area that were unchanged were not updated or revised.

Contrary to the commenter’s suggestion, Chapter 3.7, Biological Resources and Wetlands, of the Revised DEIR/Supplemental DEIS does not utilize the no-project alternative as the baseline upon which to compare the project’s impacts to biological resources and wetlands. Instead, the baseline is based on present-day, existing conditions. The RDEIS/SDEIS also separately include a qualitative discussion of how the project compares to the No Project Alternative, consistent with CEQA.

BO030-50

The text in Section 3.7.4.2 of the Final EIR/EIS has been revised to indicate that urban and agricultural lands in the BNSF right-of-way were mapped and the term "impact" footprint was changed to the term "project" footprint in response to your comment in Section 3.7, Biological Resources and Wetlands.

BO030-51

In response to bullet 1, the text in Section 3.7.4.5 of the Final EIR/EIS has been revised to indicate that the descriptions of the major watercourses are provided only in Section 3.8, Hydrology and Water Resources, .

In response to bullet 2, within the Wetland Study Area for the project, vernal pools and

BO030-51

swales occur along the BNSF tracks between the towns of Cocoran and Wasco.

In response to bullet 3, discussion of the Colonel Allensworth State Historic Park has been removed from Section 3.7, Biological Resources and Wetlands, in the Final EIR/EIS, because the park is not managed for the preservation of biological resources. Construction period impacts and project impacts on the Colonel Allensworth State Historic Park are discussed in Section 3.15, Parks, Recreation, and Open Space, of the Final EIR/EIS.

BO030-52

In response to bullet 1, Section 3.7.4.6 of the Final EIR/EIS, has been revised in response to your comment. Specifically, additional subheadings have been added to allow the reader to easily transition from one wildlife corridor discussion to another.

In response to bullet 2, text has been added to Section 3.7.4.6 of the Final EIR/EIS in Section 3.7, Biological Resources and Wetlands, to introduce the Pacific Flyway and explain that it is not included in the discussion of the seven major linkages throughout the document because potential impacts of the project on migratory birds are described under the discussion of special-status wildlife species.

BO030-53

Refer to Standard Response FB-Response-GENERAL-02.

The EIR/EIS was organized to minimize section numbering. Some readers prefer additional numbering and some do not. This is a matter of choice.

With the various alternative alignments considered for the project, there are a total of 72 alternative ways for a single alignment to run from Fresno to Bakersfield. Providing an individual analysis of all 72 alternatives would have made the document unreadable. In order to provide information to compare alternatives in as concise a format as possible, the impacts of a single alternative from Fresno to Bakersfield, termed the BNSF Alternative, were described first. This was followed by a description of the impacts of each individual alternative segment (e.g., Hanford West Bypass and Allensworth Bypass) and a comparison of the difference in impacts between that alternative segment

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and the corresponding segment of the BNSF Alternative. In this way, a reader can quickly understand the implications of taking either the BNSF Alternative or one of the alternative segments for the particular environmental topic being evaluated.

The BNSF Alternative is not a "Locally Preferred Alternative." The Federal Railroad Administration's alternatives analysis process does not result in a Locally Preferred Alternative, which is common for transit projects, but rather in a reasonable range of feasible alternatives that meet a project's purpose and need. Because the BNSF is the only end-to-end alternative, it is used as a backbone to which the other project alternatives are discussed. Other project alternatives could not be built to meet the project's purpose and need without inclusion of components of the BNSF Alternative. For example, the use of the Corcoran Bypass Alternative would still require the use of the BNSF Alternative to complete the project between Fresno and Bakersfield. Rather that analyzing 72 potential alignment alternative combinations, the analysis includes discussions of the specific project alternatives. In many instances the discussions and comparisons made are similar to the BNSF or to its corresponding segment because the resources and existing conditions are similar. However, when differences arise (such as the quantity of the affected area), they are discussed and compared within the appropriate section. As such, there is an equal discussion and analysis conducted for all the biological resources impacts under all the HST alternatives. Contrary to the comment, there is no statement or identification in the text that the BNSF Alternative is the Locally Preferred Alternative.

BO030-54

As stated in Appendix 3.7-B, Comparison of Impacts on Biological Resources by Alternative, an appendix to Section 3.7 Biological Resources and Wetlands of the EIR/EIS, a breakdown of the acreage of impacts on each individual special-status plant and wildlife species for all HST alternatives is provided in Attachment 1 (plants) and Attachment 2 (wildlife) by impact type (Project/Construction). All special-status wildlife species' potential habitat type(s) are listed in Attachment 2 under the column heading, "CWHR Vegetation Community or Wildlife Association." The acronyms for these types are provided in a footnote to this table (i.e., LAC: Lacustrine, PAS: Pasture, VRI: Valley foothill riparian).

BO030-54

Appendix 3.7-A, Special-Status Species and Observed Habitats, in Attachment 1 (plants) and Attachment 2 (wildlife), lists the potential to occur for all special-status plant and wildlife species.

THE FRA and Authority agree with the commenter that aquatic communities do not define or limit the environment or limit the environmental impacts. The aquatic habitats are described as required by the USACE, a full NEPA cooperating agency. The data required as part of the NEPA/404/408 Integration Memorandum of Understanding are provided in the Revised DEIR/Supplemental DEIS and the various Checkpoint documents are available on the Authority's website.

Contrary to the commenter's suggestion, the actual acreage of a given biological resource that would be affected by each alternative are presented in Appendix 3.7-B of the EIR/EIS. This appendix includes a number of tables that quantify the actual amount of impact associated with a given alternative and provide the difference when compared against the corresponding area associate with the BNSF Alternative. For the Authority and FRA actions, the full range of biological resources and other environmental factors will be balanced and the severity of impacts will be considered in light of the possible overriding considerations.

BO030-55

Refer to Standard Response FB-Response-BIO-03.

A California tiger salamander wildlife habitat assessment was performed, as described in Section 3.4.6, Wildlife Habitat Assessment, of the draft *Fresno to Bakersfield Biological Resources and Wetlands Technical Report,* to identify potential upland and aquatic habitat for this species within its range; the results of this assessment are provided in Section 5.6, Special-Status Wildlife Species, Figure 5-5.

As stated in Appendix 3.7-B, Comparison of Impacts on Biological Resources by Alternative, an appendix to Section 3.7, Biological Resources and Wetlands, of the Revised DEIR/Supplemental DEIS, the potential habitat types for California tiger salamander are listed in Attachment 2 under the column heading, "CWHR Vegetation Community or Wildlife Association." The acronyms for these types are provided in a

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footnote to this table (i.e., LAC: Lacustrine, PAS: Pasture, VRI: Valley foothill riparian). Aquatic habitat for California tiger salamander was limited to "vernal pools/seasonal wetlands in the vicinity of the Corcoran Irrigation Water District," and upland habitat for this species was limited to "ASC, AGS, PAS, VOW surrounding vernal pools/seasonal wetlands in Corcoran Irrigation Water District." Vernal pool branchiopod habitat was limited to "vernal pools/seasonal wetlands." Furthermore, as described in a footnote to Attachment 2, the range of the "California tiger salamander, potential aquatic habitat [is] limited to the Corcoran Irrigation Water District; potential upland habitat [was] determined by identifying associated vegetation communities within a 1.24-mile radius of potential aquatic habitat." A breakdown of the acreage of impacts on California tiger salamander aquatic and upland habitat for the BNSF Alignment and every alternative alignment is provided in Attachment 2 by impact type (Project/Construction).

As stated in Section 3.7, Biological Resources and Wetlands, of the Revised DEIR/Supplemental DEIS, California tiger salamander mitigation measures are listed in Table 3.7-21 under Impact Bio #2, and are detailed in Section 3.7.7.3, Project Mitigation Measures, under Mitigation Measure BIO-56: Compensate for Impacts on California Tiger Salamander; Mitigation Measure BIO-63: Compensate for Permanent and Temporary Impacts on Jurisdictional Waters; and Mitigation Measure BIO-65: Offsite Habitat Restoration, Enhancement, and Preservation.

Specific to special-status species like the yellow rail, direct and indirect impacts to such species are addressed in Section 3.7, Biological Resources and Wetlands, of the Revised DEIR/Supplemental DEIS under Construction Period impacts and Project impacts [see subheader: “Birds (includes all migratory birds covered under MBTA)” under the discussion for each alternative] and Appendix 3.7-B, Comparison of Impacts on Biological Resources by Alternative [see row: “SPECIAL-STATUS WADING BIRDS, SHOREBIRDS, AND DUCK SPECIES”]. Species presence, as identified during surveys or a review of the CNDDB, was not a determining factor in identifying suitable habitat. Instead, CWHR Vegetation Community data was used as the basis for determining where suitable habitat was present.

BO030-56

Vernal pool impacts are discussed in Section 3.7.5.3 of the Revised DEIR/Supplemental

BO030-56

DEIS under Habitat of Concern. Table 3.7-7 and Table 3.7-13 present construction and project impacts (respectively) on jurisdictional waters, including vernal pools, associated with each of the project alternatives (also see Appendix 3.7-B, Attachment 4).

Additional details on vernal pool impacts are presented in the Checkpoint C Summary Report, Watershed Evaluation Report, and CRAM report, which are available on the Authority's website.

On January 18, 2013, the Authority submitted a response to the USACE to a request for additional information, which included maps delineating the extent and identifying the type of all potential waters of the U.S., including wetlands, for the Fresno to Bakersfield Section. The Authority requested a preliminary jurisdictional determination from the USACE. The USACE issued a Preliminary Jurisdictional Delineation on February 5, 2013, stating that they concurred with the amount and location of waters of the U.S. The delineated waters of the U.S. have been used as the basis for estimating impacts on jurisdictional waters in the Final EIR/EIS.

Maps depicting the approximate location of these resources have been provided in the Revised DEIR/Supplement DEIS. Because these resources are sensitive and subject to disturbance, the specific locations were not made readily available to the public.

In the Final EIR/EIS, the Checkpoint C submittal package and the CWA Section 404 permit application include impact acreage values consistent with the U.S. Army Corps of Engineers, February 5, 2013, preliminary jurisdictional determination, or with subsequent submittals. However, the USACE does not have policy limits related to the number of vernal pools that can be disturbed.

BO030-57

Appendix 3.7-B, Comparison of Impacts on Biological Resources by Alternative, an appendix to Section 3.7, Biological Resources and Wetlands, of the Revised DEIR/Supplemental DEIS, includes a breakdown of the acreage of impacts on each individual special-status plant and wildlife species for the BNSF Alternative and all alignment alternatives, in Attachment 1 (plants) and Attachment 2 (wildlife) by impact type (Project/Construction). All special-status wildlife species’ potential habitat type(s)

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are listed in Attachment 2 under the column heading, “CWHR Vegetation Community or Wildlife Association”; the acronyms for these types are provided in a footnote to this table (i.e., LAC: Lacustrine, PAS: Pasture, VRI: Valley foothill riparian).

As depicted in Appendix 3.7-A, Special-Status Species and Observed Habitats, Attachment 3 (Figure A3-1a through A3-1n: Observed habitats within the Habitat Study Area), CWHR habitat types were mapped for the entire Habitat Study Area, which includes the construction project footprint plus a 1,000-foot buffer around project elements. Together, Figures A3-1a through A3-1n and Appendix 3.7-B, Attachment 2, provide a detailed breakdown of the location and extent of impacts on special-status species.

BO030-58

The baseline conditions identified in Section 3.7, Biological Resources and Wetlands, and in the associated impact analysis provide a sufficient level of information required by CEQA. Baseline conditions are described in Section 3.7.4, Affected Environment, including descriptions of the regional setting, plant communities and land cover types (terrestrial and aquatic communities), native fauna assemblage, special-status species (Tables 3.7-3 and 3.7-4 and Appendix 3.7-A), habitats of concern (e.g., special-status plant communities, jurisdictional waters, critical habitat, essential fish habitats, conservation areas, and protected trees), and wildlife movement corridors.

The discussion of the impacts on biological resources includes full descriptions of the type of impacts that are anticipated to occur and the mechanisms by which these would occur for each of the HST alternatives and the associated biological resources. The baseline conditions and impact analyses were conducted through the assimilation of numerous data sources. These data sources include a tremendous amount of existing information found in the California Natural Diversity Database and California Wildlife Habitat Relationship System. Contrary to statements made in the comment, this information was supplemented with extensive field surveys that were conducted where permission to enter was granted. These surveys included wetland delineations, special-status plants surveys, and wildlife habitat mapping surveys. While access to all properties was not granted, public access to much of the footprint and adjacent areas was available and windshield surveys were conducted (where permission to enter was

BO030-58

not granted) to verify aerial signatures and map suitable habitats for special-status species, jurisdictional waters, and other biological resources (i.e., protected trees). Because permission to enter was not received or ever anticipated across the entire alignment, a direct comparison of field survey data could not be conducted across or between HST alternatives. Therefore, a conservative approach was taken to apply the same level of impact analysis across all alternatives regardless of permission-to-enter status. The conservative approach to impact analysis assumes the presence of special-status species within their range where suitable habitat exists, which results in a direct comparison of impacts on each special-status species. This approach is common among infrastructure projects in the state of California. This adequate and conservative impact analysis provides a worst-case scenario for analyzing impacts and maximizes compensatory mitigation requirements.

BO030-59

Refer to Standard Response FB-Response-GENERAL-02.

The BNSF Alternative is not a "Locally Preferred Alternative." The Federal Railroad Administration's alternatives analysis process does not result in a Locally Preferred Alternative, which is common for transit projects, but rather in a reasonable range of feasible alternatives that meet a project's purpose and need. Because the BNSF is the only end-to-end alternative, it is used as a backbone to which the other project alternatives are discussed. Other project alternatives could not be built to meet the project's purpose and need without inclusion of components of the BNSF Alternative. For example, the use of the Corcoran Bypass Alternative would still require the use of the BNSF Alternative to complete the project between Fresno and Bakersfield. Rather that analyzing 72 potential alignment alternative combinations, the analysis includes discussions of the specific project alternatives. In many instances the discussions and comparisons made are similar to the BNSF or to its corresponding segment because the resources and existing conditions are similar. However, when differences arise (such as the quantity of the affected area), they are discussed and compared within the appropriate section. As such, there is an equal discussion and analysis conducted for all the biological resources impacts under all the HST alternatives. Contrary to the comment, there is no statement or identification in the text that the BNSF Alternative is the Locally Preferred Alternative.

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With the various alternative alignments considered for the project, there are a total of 72 alternative ways for a single alignment to run from Fresno to Bakersfield. Providing an individual analysis of all 72 alternatives would have made the document unreadable. In order to provide information to compare alternatives in as concise a format as possible, the impacts of a single alternative from Fresno to Bakersfield, termed the BNSF Alternative, were described first. This was followed by a description of the impacts of each individual alternative segment (e.g., Hanford West Bypass and Allensworth Bypass) and a comparison of the difference in impacts between that alternative segment and the corresponding segment of the BNSF Alternative. In this way, a reader can quickly understand the implications of taking either the BNSF Alternative or one of the alternative segments for the particular environmental topic being evaluated.

BO030-60

While the commenter is correct that the sub-sections beyond the 4th level heading are not numbered, the document includes a number of subsections and organization headings. The 5th level heading is identified with text and is recognized by bold and underlined text, the 6th level heading is written in bold and the text is italicized, and 7th level heading is identified as text in bold. As such, the document includes a number of ways in which the reader can orient and understand the organization of the section, and comprehend the information presented. Furthermore, the pdf version of the document posted on the Authority's website allows for browsing of the document and its subsections using the bookmarks tab to the 3rd level heading.

The use of numbered headings is a matter of preference.

BO030-61

The text of Section 3.7.5.3 of the Final EIR/EIS has been edited to clarify that these areas have low potential to support special-status plant species.

BO030-62

Information about fill material was added to the Revised DEIR/Supplemental DEIS in response to a comment letter from the U.S. Army Corps of Engineers requesting that the

BO030-62

EIR/EIS "address potential contaminants in the fill material (230.11[d]) and provide a general evaluation of the fill material (40 CFR 230.60, 230.61)."

BO030-63

Refer to Standard Response FB-Response-N&V-01.

The commenter inaccurately characterizes the text in the document, inasmuch as there is no reference to a 0.5-mile buffer used to evaluate direct and indirect impacts. Furthermore, the Allensworth Ecological Reserve is more than 1,000 feet from the project and construction footprints, and therefore would not be affected directly or indirectly by the Allensworth Bypass Alternative. Page 3.7-7 does reference the Habitat Study Area, which is the largest of the study areas and includes a 250-foot Core Study Area, plus an additional 750-foot auxiliary buffer. The 1,000-foot buffer is what was used to evaluate direct and indirect impacts on habitat and special-status wildlife species. The commenter's statement regarding a 0.5-mile buffer is not referenced or included anywhere on this page. The next reference to a 0.5-mile buffer is included as part of the wetland delineation; however, this buffer was only used for background review. The impact area for direct and indirect impacts on aquatic resources extended only 250 feet from the project and construction footprints.

As described in Standard Response FB –Response-N&V-01: Animal Effects, research on noise effects on wildlife and livestock suggests that noise levels about 100 decibels (dBA) or greater Sound Exposure Level (SEL) may cause animals to alter behavior. Given the distance between the Allensworth Ecological Reserve and the Allensworth Bypass, at that distance effects from the project are expected to attenuate below levels disruptive to wildlife. Refer to Section 3.4.3.3, Impact Assessment Guidance, and Section 3.4.5.3, High-Speed Train Alternatives, of the Revised DEIR/Supplemental DEIS under the heading Noise Effects on Wildlife and Domestic Animals for further information regarding noise effects on wildlife and livestock.

BO030-64

Impacts on biological resources resulting from the HST station areas and heavy maintenance facilities are analyzed as part of Impacts Bio #5 through #8 because these impacts are permanent in nature and are therefore described under Project Impacts.

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BO030-64

HST station areas and heavy maintenance facilities are not described under Impacts BIO #1 through #4 because Construction Period Impacts include only temporary impacts.

BO030-65

Appendix 3.7-B: Comparison of Impacts on Biological Resources by Alternative, an appendix to Section 3.7, Biological Resources of the Revised DEIR/Supplemental DEIS, includes a breakdown of the acreage of impacts on each individual special-status plant and wildlife species for the BNSF Alternative and for all other alignment alternatives in Attachment 1 (plants) and Attachment 2 (wildlife) by impact type (Project/Construction). All special-status wildlife species' potential habitat type(s) are listed in Attachment 2 under the column heading, "CWHR Vegetation Community or Wildlife Association;" the acronyms for these types are provided in a footnote to this table (i.e., LAC: Lacustrine, PAS: Pasture, VRI: Valley foothill riparian).

The potential to occur is listed for all special-status plant and wildlife species in Appendix 3.7-A: Special-Status Species and Observed Habitats, in Attachment 1 (plants) and Attachment 2 (wildlife), Section 3.7, Biological Resources, of the Revised DEIR/Supplemental DEIS.

BO030-66

The unsurveyed habitat with potential to support special-status plant species is a specifically delineated area that was not surveyed but through visual assessment from adjacent parcels or aerial photo interpretation has been determined to have some potential to support special-status plant species. As stated in the text, this area is limited within the area of impact for the heavy maintenance facilities. As also stated in Section 3.7.4 of the Revised DEIR/Supplemental DEIS, "[a]gricultural lands may provide marginal habitat for seasonal forage and refugia for a limited number of common species and special-status species. Ruderal plant species, which are defined as species that grow where the natural vegetation has been removed or significantly degraded by past or current human activity, are found in these agricultural land types, especially where these types were bordered by roads, canals, ditches, or other highly disturbed features." Agricultural lands are unlikely to support special-status plant species because these areas feature a high level of disturbance, including

BO030-66

tilling, disking, and herbicide treatment.

BO030-67

In the referenced text, a single significance determination is presented for special-status wildlife species collectively as a summary of the more detailed analysis. This determination represents the highest level of impact on any single guild of special-status wildlife for each heavy maintenance facility. Table 3.7-11 in the Revised DEIR/Supplemental DEIS presents the significance determinations for special-status wildlife species by guild.

BO030-68

Refer to Standard Response FB-Response-BIO-02, FB-Response-GENERAL-01.

Section 3.7.5 is organized to be consistent with how 'Environmental Consequences' are addressed throughout Chapter 3 of the EIR/EIS by numbering the impacts that are expected to occur during project construction and operation. Subsequently, Section 3.7.7 presents how the mitigation measures that have been developed in coordination with regulatory agencies will be effective in addressing the impacts identified in Section 3.7.5. A detailed discussion of individual mitigation measures are addressed in the responses to the comments that follow.

BO030-69

Refer to Standard Response FB-Response-BIO-02.

The commenter lists mitigation measures that it believes do not present direction regarding how they will be implemented or who will implement them. The Authority and FRA disagree with the commenter's characterization of these mitigation measures. The measures provide explicit direction of who will implement the measures and how they will be implemented.

BO030-70

Designation of roles and responsibilities for a project mitigation program is a standard element of regulatory agency permitting guidelines for large construction projects. This

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BO030-70

measure is included in the overall mitigation measures to accommodate anticipated agency requirements. Because implementation of the various components that comprise the overall mitigation plan (preconstruction surveys, take avoidance, monitoring, compensation, etc.) is a complex process, it is necessary to identify the individuals who will be responsible for implementation. Though the commenter is correct in pointing out that Mitigation Measure BIO-1 does not in itself mitigate for any particular impact, this measure is a mandatory component of implementing the wider mitigation program and was therefore included as part of the mitigation measures.

BO030-71

Granting regulatory agency access is a standard element of the permitting process for large construction projects. This measure is included in the overall mitigation measures to accommodate anticipated agency requirements. Compliance with regulatory agency requirements is mandatory; therefore, agency access was included as part of the mitigation measures. (See *Oakland Heritage Alliance v. City of Oakland* [2011] 195 Cal.App.4th 884.)

BO030-72

Preparing and implementing a worker environmental awareness program (WEAP) is a standard element of regulatory agency permitting guidelines for large construction projects. This measure is included in the overall mitigation measures to accommodate anticipated agency requirements. The WEAP program, as described in the Final EIR/EIS, is designed to reduce and minimize the impacts associated with construction activity by training construction and operations personnel in sensitive biological resource identification and avoidance. Implementation of Mitigation Measure BIO-3 is intended to minimize and avoid inadvertent impacts on a wide range of sensitive biological resources.

BO030-73

Implementation of the weed-control plan, as described in Mitigation Measure BIO-4, will minimize and reduce impacts on the landscape resulting from the introduction or spread of noxious weeds due to construction and routine maintenance activities. This mitigation measure is not accurately described as simply “an offer to prepare a plan.” Mitigation

BO030-73

Measure BIO-4 establishes specific, measurable criteria that must be met in order to consider weed control successful (noxious weed coverage less than 5%); a monitoring plan to measure noxious weed establishment and to target control efforts (coordination and monitoring); assigns clear roles and responsibilities for noxious weed control (implementation); and establishes a reporting system (oversight). Mitigation Measure BIO-4 will mitigate impacts on natural areas by reducing and minimizing the introduction and spread of noxious weeds.

BO030-74

Mitigation Measure BIO-MM#8 has been updated in Section 3.7.7.1 of the Final EIR/EIS to include additional information to clarify the use of wildlife-exclusion fencing, and now states that “Exclusion barriers will be made of durable material, be regularly maintained, and installed below-grade under the supervision of the Project Biologist. Wildlife-exclusion fencing will be installed along the outer perimeter of environmentally sensitive areas and ERAs, and below-grade (e.g., 6-10 inches below-grade). The design specifications of the exclusion fencing will be determined through consultation with the USFWS and/or CDFG. The wildlife-exclusion barrier will be monitored, maintained at regular intervals throughout construction, and will be removed following completion of major construction activities. Furthermore, the 8-foot-high security fence will be enhanced with flashing or slats from 6 inches below ground surface to 12 inches above to prevent wildlife moving into the right-of-way in areas of suitable natural habitat for special-status wildlife species. The security fencing with flashing or slats will be maintained.”

However, specific information regarding the mesh size and material type are often specified as part of permit conditions and are not appropriate specifications in this planning document.

BO030-75

Identifying dedicated equipment staging areas is a standard element of regulatory agency permitting guidelines for large construction projects. This measure is included in the overall mitigation measures to accommodate anticipated agency requirements. Use of previously disturbed equipment staging areas, as described in the Final EIR/EIS, is a means of reducing the overall construction area footprint, and is therefore a form of

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BO030-75

minimization and avoidance of impacts. Mitigation Measure BIO-9 is intended to maximize the use of existing disturbed areas, thereby reducing impacts on undisturbed and or sensitive features in the construction footprint.

BO030-76

Using wildlife-friendly and agency-approved erosion-control matting is a standard element of regulatory agency (e.g., USFWS) permitting guidelines for large construction projects. This measure is included in the overall mitigation measures to accommodate anticipated agency requirements. Plastic mono-filament netting (erosion-control matting) or similar material in erosion-control materials is known to negatively impact wildlife. As described in the Revised DEIR/Supplemental DEIS, Mitigation Measure BIO-10 provides a plan for identifying and replacing non-agency-approved erosion-control materials that may result in take of special-status species. This mitigation measure assigns clear roles and responsibilities for identifying problem areas (monitoring), replacing non-approved mono-filament netting with agency-approved erosion-control materials (coordination and implementation), and establishes a reporting system (oversight). Implementation of this mitigation measure is a standard best management practice for reducing potential impacts on wildlife.

Vehicle traffic control (i.e., restricting project vehicle traffic within the construction area to established roads, construction areas, and other designated areas) (as described in the Revised DEIR/Supplemental DEIS), is a standard element of regulatory agency (e.g., USFWS) permitting guidelines for large construction projects. This measure is included in the overall mitigation measures to accommodate anticipated agency requirements. As described in the Revised DEIR/Supplemental DEIS, Mitigation Measure BIO-11 identifies specific vehicle traffic mitigation criteria (plan), assigns roles and responsibilities for implementation, and establishes a reporting system (oversight). Implementation of this mitigation measure is a standard best management practice and is expected to reduce the amount of disturbance to the life cycles of animals outside of the construction footprint by keeping vehicles within the construction footprint. Implementation will also reduce the chance that animals straying within the construction area could be struck by equipment, and will reduce the amount of fugitive dust that could disturb plants and animals outside the construction footprint.

BO030-77

Notification and reporting of take is a standard element of regulatory agency permitting for large construction projects. This measure is included in the overall mitigation measures to accommodate anticipated agency requirements. Compliance with agency permitting requirements is generally a mandatory component of permitting conditions, and was therefore included as part of the mitigation measures. Furthermore, by reporting take, additional compensatory mitigation may be required, as specified in various permit requirements or as required by CEQA.

BO030-78

Submitting post-construction compliance reports is a standard element of regulatory agency permitting processes for large construction projects. This measure is included in the overall mitigation measures to accommodate anticipated agency requirements and track compliance with applicable federal and state regulations, including CEQA mitigation measures.

BO030-79

Refer to Standard Response FB-Response-BIO-02, FB-Response-BIO-03.

Special-status plant and plant community resource assessments were conducted to quantify and identify impacts on these special-status species and their habitat. These surveys were conducted as part of the preparation of the EIR/EIS, as described in Section 3.7.3, Methods for Evaluating Impacts, of the EIR/EIS. However, given the large scale and scope of the HST project and the limitations on the surveys themselves due to access restrictions, the results of these planning-phase surveys are limited.

Proposed mitigation measures for project impacts include conducting preconstruction surveys for specific biological resources, such as special-status plant and wildlife species. These surveys are being conducted, in part, to address the limitations of the initial survey effort. By conducting additional surveys closer to the initiation of construction, biological resources or species that have recently colonized the study area can be detected. Also, preconstruction surveys provide an opportunity to survey those parcels where permission to enter was not previously granted by landowners. Preconstruction surveys are a standard requirement for permits issued by regulatory

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BO030-79

agencies and are included in anticipation of this requirement. Therefore, because preconstruction surveys will potentially identify new biological resources that could then be avoided, this measure will contribute to mitigation for the overall project.

Although no field survey dates were discussed on page 3.7-48 of the Revised DEIR/Supplemental DEIS (as referenced by the commenter) that could conflict with this mitigation measure, Mitigation Measure BIO-16 has been updated in the Final EIR/EIS to include additional information explaining that, "A qualified agency-approved biologist (designated by the Project Biologist) will conduct preconstruction surveys for special-status plant species and special-status plant communities in all potentially suitable habitats where permission to enter was not granted during the spring and summer 2010 field surveys or 2011 supplemental surveys" to be consistent with the time botanical surveys were conducted.

BO030-80

Seasonal work restrictions are a standard element of regulatory agency permitting guidelines for large construction projects. This measure is included in the overall mitigation measures to accommodate anticipated agency requirements. For seasonal avoidance of vernal pool habitat, the Contractor will not work within 250 feet of suitable aquatic habitats (e.g., vernal pools, seasonal wetlands) (corresponding to the rainy season) or as determined through informal or formal consultation with the U.S. Fish and Wildlife Service or U.S. Army Corps of Engineers. As described in the Revised DEIR/Supplemental DEIS, Mitigation Measure BIO-19 describes a detailed plan for avoiding impacts on vernal pool habitat, so as to avoid special-status vernal pool branchiopods and vernal-pool-dependent species. This mitigation measure assigns clear roles and responsibilities for delineating and monitoring sensitive habitat (implantation), including coordination with the appropriate regulatory agencies (communication), and establishes a reporting system (oversight). Implementation of Mitigation Measure BIO-19 should not create, as the commenter states, "potential adverse impacts to the project" because seasonal work restrictions in areas containing vernal pool habitat are an expected and typical permitting condition for the region. Additionally, Mitigation Measure BIO-19 contains specific provisions for work activities that must be completed outside the seasonal work restriction window.

BO030-81

Implementation of Mitigation Measure BIO-20, will offer offsite compensation for all temporary and permanent impacts on vernal pools, in addition to minimizing and reducing impacts on vernal pool habitat resulting from construction and routine maintenance activities. This mitigation measure approaches impacts on vernal pool habitat in an extremely conservative fashion, effectively treating temporary impacts as permanent impacts for the purposes of offsite mitigation (Mitigation Measure BIO-63). This mitigation measure was specifically developed to meet or exceed standard agency mitigation criteria. The Contractor will obtain approval from the U.S. Army Corps of Engineers, before the implementation of the above-described mitigation measures, for any unanticipated temporary impacts on vernal pools. If unanticipated temporary impacts take more than one full wet-dry season cycle, offsite mitigation will be implemented.

BO030-82

Implementation of the avoidance and minimization measures detailed in the *Conservation Guidelines for the Valley Elderberry Longhorn Beetle* (USFWS 1999a), will reduce impacts on this species, primarily by identifying and avoiding elderberry shrubs exhibiting valley elderberry longhorn beetle exit holes. The commenter expressed concern that adherence to this mitigation measure "given actual locations of elderberry bushes within the construction footprint that the Guidelines referenced could actually be followed without infeasible changes to the project." In the event that it is not possible to avoid individual elderberry shrubs that contain confirmed valley elderberry longhorn beetle exit holes, the *Conservation Guidelines for the Valley Elderberry Longhorn Beetle* allow these individual plants to be relocated in consultation with the U.S. Fish and Wildlife Service. Therefore, implementation of this mitigation measure will not result in infeasible changes to the project.

BO030-83

Refer to Standard Response FB-Response-BIO-02, FB-Response-BIO-03.

Special-status reptile and amphibian resource assessments were conducted to quantify and identify impacts on these special-status species and their habitat. These surveys were conducted as part of the preparation of the EIR/EIS, as described in Section 3.7.3

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of the Revised DEIR/Supplemental DEIS. However, given the large scale and scope of the HST project, as well as limitations on the surveys themselves due to access restrictions, the results of these planning-phase surveys are limited. Proposed mitigation measures for project impacts include conducting preconstruction surveys for specific biological resources such as special-status plant and wildlife. These surveys are being conducted, in part, to address the limitations of the initial survey effort. By conducting additional surveys closer to the initiation of construction, ecological resources or species that have recently colonized the study area can be detected. Additionally, preconstruction surveys provide an opportunity to survey those parcels where permission to enter was not previously granted by landowners. Preconstruction surveys are a standard requirement for permits issued by regulatory agencies and are included in anticipation of this requirement. Therefore, because preconstruction surveys will potentially identify new biological resources that could then be avoided, this measure will contribute to mitigation for the overall project.

BO030-84

During final design, the Project Biologist will verify that the catenary system, masts, and other structures, such as fencing, are designed to be bird- and raptor-safe in accordance with applicable recommendations presented in *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006* (APLIC 2006), and *Reducing Avian Collisions with Power Lines: State of the Art in 2012* (APLIC 2012). The *Mitigating Bird Collisions with Power Lines* (APLIC 1994) has been superseded by the 2012 publication.

This report describes the design problems that lead to raptor injury and mortality, and provides suggested practices to avoid such effects, including perch guards, nesting deterrent devices, alternative materials, and design and configuration recommendations. Through implementation of these standards as applicable as determined by a qualified biologist, potential impacts to bird and raptor species through collisions and electrocution with power lines will be reduced and minimized.

The standards recommended in the Suggested Practices document are considered the industry standard for minimizing raptor injury and mortality. The Project Biologist will check the final design drawings and submit a memorandum to the Mitigation Manager to

BO030-84

document compliance with this measure. The commenter is incorrect in pointing out that Mitigation Measure BIO-MM#31 does not in itself mitigate for any particular impact, as it incorporates raptor-safe features into the final catenary system and mast design, thereby avoiding potential impacts on raptors and other special-status bird species.

BO030-85

The burrowing owl avoidance and minimization measures, as described in Mitigation Measure BIO-MM#36, are a standard element of California Department of Fish and Wildlife (CDFW) permitting guidelines for projects that occur in known burrowing owl habitat. This measure is included in the overall mitigation measures to accommodate anticipated CDFW requirements. The Contractor will implement burrowing owl avoidance and minimization measures following *Staff Report on Burrowing Owl Mitigation* (CDFG 2012). Eviction of burrowing owls outside the nesting season may be permitted pending evaluation of eviction plans and receipt of formal written approval from the CDFW authorizing the eviction. If burrowing owls must be moved from the project area, the Contractor's Biologist, under the supervision of the Project Biologist, will undertake passive relocation measures, including monitoring, in accordance with CDFW guidelines. Implementation of Mitigation Measure BIO-MM#36 should not create adverse impacts on the project because the creation of burrowing owl setbacks is an expected and typical permitting condition for the region. Additionally, Mitigation Measure BIO-MM#36 contains specific provisions to accommodate work activities that may occur, or are anticipated to occur, within a burrowing owl setback.

BO030-86

Refer to Standard Response FB-Response-BIO-02, FB-Response-BIO-03.

Proposed mitigation measures for project impacts include conducting preconstruction surveys for specific biological resources, such as special-status bat species. These surveys are being conducted, in part, to address the limitations of the initial survey effort. By conducting additional surveys closer to the initiation of construction, ecological resources or species that have recently colonized the study area can be detected. Additionally, preconstruction surveys provide an opportunity to survey those parcels where permission to enter was not previously granted by landowners. Therefore, because preconstruction surveys would potentially identify new biological resources that

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BO030-86

could then be avoided or relocated (through implementation of Mitigation Measures BIO-41 and BIO-42), this measure will contribute to mitigation for the overall project.

BO030-87

The measures outlined in Mitigation Measure BIO-41 follow standard agency protocols for the avoidance of, or in the event that avoidance is infeasible, relocation of bat hibernation roosts. This measure is included in the overall mitigation measures to accommodate anticipated agency requirements. The commenter is incorrect in pointing out that Mitigation Measure BIO-41 does not in and of itself mitigate for any particular impact, inasmuch as implementation of this mitigation measure is a standard best management practice for avoiding loss of bat hibernation roosts, or harassment to hibernating bats. It is anticipated that avoidance will be the preferred option in the event that a bat hibernation roost is identified in the project area. In the event that avoidance of the hibernation roost is not feasible, the Contractor's Biologist, under the supervision of the Project Biologist, will prepare a relocation plan and coordinate the construction of an alternative bat roost with the California Department of Fish and Wildlife. The Contractor will implement the Bat Roost Relocation Plan before the commencement of construction activities.

BO030-88

The measures outlined in Mitigation Measure BIO-42 follow standard agency protocols for passively excluding non-breeding or non-hibernating individuals or groups of bats that are found within the construction footprint. This measure is included in the overall mitigation measures to accommodate anticipated agency requirements. The commenter is incorrect in pointing out that Mitigation Measure BIO-42 does not in itself mitigate for any particular impact, as implementation of this mitigation measure is a standard best management practice for avoiding injury or harassment to non-breeding or non-hibernating bats. All exclusion measures and methods must be approved by the California Department of Fish and Wildlife before implementation. The Contractor will not implement exclusion measures to evict bats from established maternity roosts or occupied hibernation roosts. The Project Biologist will submit a memorandum, on a weekly basis or at other appropriate intervals, to the Mitigation Manager to document compliance with this measure.

BO030-89

Refer to Standard Response FB-Response-BIO-02, FB-Response-BIO-03.

American badger habitat assessments were conducted to quantify and identify impacts on this species and its habitat. These surveys were conducted as part of the preparation of the EIR/EIS, as described in Section 3.7.3 of the Revised DEIR/Supplemental DEIS. However, given the large scale and scope of the HST project, as well as limitations on the surveys themselves due to access restrictions, the results of these planning-phase surveys are limited. Proposed mitigation measures for project impacts include conducting preconstruction surveys for specific biological resources, such as special-status plant and wildlife species. These surveys are being conducted, in part, to address the limitations of the initial survey effort. By conducting additional surveys closer to the initiation of construction, ecological resources or species that have recently colonized the study area can be detected. Additionally, preconstruction surveys provide an opportunity to survey those parcels where permission to enter was not previously granted by landowners. Preconstruction surveys are a standard requirement for permits issued by regulatory agencies and are included, in part, in anticipation of this requirement. Therefore, because preconstruction surveys will potentially identify new biological resources that could then be avoided, this measure will contribute to mitigation for the overall project.

BO030-90

Refer to Standard Response FB-Response-BIO-02.

The avoidance and minimization measures described in Mitigation Measure BIO-46 are standard elements of agency permitting guidelines for projects that occur in San Joaquin kit fox habitat. This measure is included in the overall mitigation measures to accommodate anticipated agency requirements. The Contractor will implement San Joaquin kit fox avoidance and minimization measures following the *Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance* (USFWS [1999] 2011). This mitigation measure is not accurately described as a "preparation of studies." Adherence to the avoidance and minimization measures outlined in the Standardized Recommendations is assumed to be an enforceable requirement of the project Biological Opinion. Furthermore, this mitigation measure

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assigns clear roles and responsibilities for implementing agency-required avoidance and minimization measures (implementation)—including coordination with the appropriate regulatory agencies (communication)—and establishes a reporting system (oversight).

San Joaquin kit fox habitat assessments were conducted to quantify and identify impacts on this species and its habitat. These surveys were conducted as part of the preparation of the EIR/EIS, as described in Section 3.7.3, Methods for Evaluating Impacts, of the Revised DEIR/Supplemental DEIS. However, given the large scale and scope of the HST project and limitations on the surveys themselves due to access restrictions, the results of these planning-phase surveys are limited.

Proposed mitigation measures for project impacts include conducting preconstruction surveys for specific biological resources, such as special-status plant and wildlife species. These surveys are being conducted, in part, to address the limitations of the initial survey effort. By conducting additional surveys closer to the initiation of construction, ecological resources or species that have recently colonized the study area can be detected. Also, preconstruction surveys provide an opportunity to survey those parcels where permission to enter was not previously granted by landowners. Preconstruction surveys are a standard requirement for permits issued by regulatory agencies and are included, in part, in anticipation of this requirement. Therefore, because preconstruction surveys will potentially identify new biological resources that could then be avoided, this measure will contribute to mitigation for the overall project.

BO030-91

The restoration of temporary impacts on jurisdictional waters would be carried out in accordance with the Revised DEIR/Supplemental DEIS Comprehensive Mitigation and Monitoring Plan (Mitigation Measure BIO-62), which would be developed in cooperation with regulatory agencies, including the U.S. Army Corps of Engineers, State Water Resources Control Board, and California Department of Fish and Wildlife. In this manner, the measure would rectify the temporary impacts that would occur on jurisdictional waters.

BO030-92

Assigning a Project Biological Monitor to all construction activities within or adjacent to jurisdictional waters was included as a mitigation measure to ensure permit conditions and CEQA mitigation measures are being adhered to and therefore minimize potential additional temporary impacts. In mitigation terms, the purpose of this particular mitigation measure is to further reduce or avoid unanticipated temporary impacts on jurisdictional waters. Requiring the presence of a monitor during activities, such as installation of bank protective devices (silt fencing, sandbags, fencing, etc.), installation and/or removal of creek crossing fill, construction of access roads, or vegetation removal, is a standard conservation measure, and potentially reduces potential inadvertent impacts on sensitive resources.

The text of this mitigation measure was revised to indicate that compliance will be documented pursuant to the mitigation measures, including, but not limited to, the provisions outlined in Mitigation Measures BIO-5, BIO-7, BIO-8, BIO-10, BIO-12–15, and BIO-47–48.

BO030-93

This measure includes several methods to avoid, minimize, and mitigate for impacts on protected trees. Preconstruction surveys, compensation for impacts, fencing of sensitive features, and the preparation and implementation of a monitoring and maintenance program would all serve to reduce and/or mitigate for impacts on protected trees.

Before the start of operation of the HST, the Contractor will install permanent special-status, mammal-proof fencing consistent with the final design along portions of the project that are adjacent to wildlife movement corridors. The purpose of installing mammal-proof wildlife fencing is to passively redirect wildlife movements where the alignment intersects with wildlife movement corridors, thereby avoiding or reducing the potential for inadvertent take or harm. The design, locations, and final installation of wildlife fencing will be developed in close consultation with the U.S. Fish and Wildlife Service and California Department of Fish and Wildlife. It is assumed that installation of approved wildlife fencing will be a requirement of the Biological Opinion for the project. Furthermore, this mitigation measure assigns clear roles and responsibilities for implementing the final design (implementation), including coordination with the appropriate regulatory agencies (communication), construction of the fence (installation),

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and establishes a reporting system (oversight).

The shielding of lights in areas of known wildlife movement corridors would reduce the level of impact associated with unshielded lights. It is assumed that wildlife movement corridors within the construction area would not be lit. Furthermore, Mitigation Measure BIO-52 contains other measures in addition to lighting that will reduce construction impacts in wildlife movement corridors, such as removing any obstacles from the area and avoiding the use of the area for construction equipment staging.

BO030-94

Refer to Standard Response FB-Response-BIO-02.

Prospective offsite compensation locations will be identified in coordination with resource agencies during the preparation of a Compensatory Mitigation Plan that identifies land parcels that appear to retain natural habitat and/or jurisdictional water features for preservation, or land where the restoration of land and/or water features would contribute an ecological lift to the landscape. The analysis will be consistent with identified conservation strategies and take into account natural wildlife habitat types, level of disturbance, parcel size, and the historical/current presence of wetland features, special-status plant species, and other natural resources.

A draft Compensatory Mitigation Plan has been prepared as part of the permitting process that identifies project impacts, expected mitigation requirements, and describes the twelve prospective mitigation properties currently under investigation that could fulfill the project's final mitigation needs. These twelve properties were identified through the analysis described briefly above, their landowners were contacted to determine their interest in fee-title acquisition or establishing conservation easements on their properties, and then reconnaissance-level and protocol-level surveys were performed at these properties. Coordination is ongoing with the California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, and U.S. Army Corps of Engineers to verify these and other prospective mitigation sites as sites suitable to complete these offsite mitigation commitments.

California voters passed Proposition 1A in November 2008, authorizing the issuance of

BO030-94

$9.95 billion in general obligation bonds for the pre-construction and construction activities of the high-speed rail system and federal grants authorized $3.316 billion under the American Recovery and Reinvestment Act to be applied to the initial construction section. These funds will cover the costs for all of the land acquisition and compensation required for the project and associated mitigation measures.

BO030-95

Refer to Standard Response FB-Response-BIO-02.

Mitigation Measure BIO-60 has been renamed "Compensate for Impacts on San Joaquin Kit Fox," and revised to explain that the Authority will mitigate the loss of San Joaquin kit fox habitat by the protection of suitable, approved habitat (U.S. Fish and Wildlife Service [USFWS] and California Department of Fish and Wildlife [CDFW]). Habitat will be replaced at a minimum of a 1:1 ratio for natural lands, and at a 0.1:1 ratio for suitable urban or agricultural lands to provide additional protection and habitat in a location that is consistent with the recovery of the species. The Authority will mitigate the impacts on San Joaquin kit fox in accordance with the USFWS Biological Opinion and/or CDFW 2081(b). Compensatory mitigation could include one of the following:

- ·Purchase of credits from an agency-approved mitigation bank.
- Fee-title-acquisition of natural resource regulatory-agency-approved property.
- Purchase or establishment of a conservation easement with an endowment for long-term management of the property-specific conservation values.
- In-lieu fee contribution determined through negotiation and consultation with USFWS.

The Project Biologist will submit a memorandum to the Mitigation Manager to document compliance with this measure.

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A draft Compensatory Mitigation Plan has been prepared as part of the permitting process that identifies project impacts, expected mitigation requirements, and describes the twelve prospective mitigation properties currently under investigation that could fulfill the project's final mitigation needs. Among these twelve properties are those that presently or historically supported San Joaquin kit fox, or are suitable for habitat restoration to a landtype appropriate for San Joaquin kit fox in the future. Coordination is ongoing with the California Department of Fish and Wildlife and U.S. Fish and Wildlife Service to verify these and other prospective mitigation sites as sites suitable to complete these offsite mitigation commitments.

California voters passed Proposition 1A in November 2008, authorizing the issuance of $9.95 billion in general obligation bonds for the pre-construction and construction activities of the high-speed rail system and federal grants authorized $3.316 billion under the American Recovery and Reinvestment Act to be applied to the initial construction section. These funds will cover the costs for all of the land acquisition and compensation required for the project and associated mitigation measures.

BO030-96

Refer to Standard Response FB-Response-BIO-02.

Prospective offsite compensation locations will be identified in coordination with resource agencies during the preparation of a Compensatory Mitigation Plan that identifies land parcels that appear to retain natural habitat and/or jurisdictional water features for preservation, or land where the restoration of land and/or water features would contribute an ecological lift to the landscape. The analysis will be consistent with identified conservation strategies and take into account natural wildlife habitat types, level of disturbance, parcel size, and the historical/current presence of wetland features, special-status plant species, and other natural resources.

A draft Compensatory Mitigation Plan has been prepared as part of the permitting process that identifies project impacts, expected mitigation requirements, and prospective mitigation properties that could fulfill the project's mitigation needs. These properties were identified through the analysis described briefly above, landowners were contacted to determine their interest in fee-title acquisition or establishment of

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conservation easements on their properties, and reconnaissance-level and protocol-level surveys were performed at these properties. Coordination is ongoing with the California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, and U.S. Army Corps of Engineers to verify these and other prospective mitigation sites as suitable to complete these offsite mitigation commitments.

California voters passed Proposition 1A in November 2008, authorizing the issuance of $9.95 billion in general obligation bonds for the pre-construction and construction activities of the high-speed rail system and federal grants authorized $3.316 billion under the American Recovery and Reinvestment Act to be applied to the initial construction section. These funds will cover the costs for all of the land acquisition and compensation required for the project and associated mitigation measures.

BO030-97

Construction and project period impacts on protected trees are discussed under Impact Bio #3 – Construction Effects on Habitats of Concern, and Impact Bio #7 – Project Effects on Habitats of Concern, in Section 3.7 of the Revised DEIR/Supplemental DEIS. Together with the common mitigation measures (Mitigation Measures BIO-1 through BIO-15) and the construction mitigation measure for protected trees (Mitigation Measure BIO-50), which result in avoidance and minimization, Mitigation Measure BIO-64 will rectify or compensate for impacts that cannot be avoided or minimized. The project will result in the complete removal and unavoidable loss of protected trees. The Authority proposes to implement Mitigation Measure Bio-64, which will compensate for the loss of this biological resource through transplanting, planting replacement trees (rectify or compensate), or providing funds to a tree protection fund based on the number of trees removed (reduced over time).

The commenter's statement regarding the lack of description in relation to the size of the tree is accurate; however, because the Authority will coordinate with a number of county and city governments to provide local jurisdictional mitigation as required by local laws and regulations, significant impacts on protected trees will be reduced to a level such that the resulting impact is less than significant. As such, the text in the Final EIR/EIS has been revised to clarify and provide for the requirement to compensate for the loss of protected trees in accordance with the local jurisdiction. As such, if a local regulation or

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law requires mitigation for the loss of protected trees based on the size of the tree impacted, the Authority and FRA will provide mitigation commensurate with the regulations and laws in that jurisdiction. Funds for the implementation of this measure (and all mitigation) will be available prior to construction.

The measure in the Final EIR/EIS now states, "The Authority will compensate for impacts, including removal or trimming of naturally occurring, native protected trees and landscape or ornamental protected trees, in accordance with the local regulatory body (city or county government). The local regulations and laws allow for a number of potential mitigation opportunities. The Authority will provide mitigation commensurate with the regulations and laws in that jurisdiction such that the resulting impact on protected trees is less than significant, and may include, but are not limited to, the following, depending on the local jurisdiction:

· Transplant all directly affected protected trees that are judged by an arborist to be in good condition to a suitable site outside the zone of impact.

· Replace directly affected protected trees at an onsite or offsite location, based on the number of protected trees removed, at a ratio not to exceed 3:1 for native trees or 1:1 for landscape or ornamental trees.

· Contribute to a tree-planting fund.

The Project Biologist will submit a memorandum to the Mitigation Manager to document compliance with this measure.

BO030-98

The term "significance" as used in Section 3.7.8 (pages 3.7-196 and 3.7-197 of the RSEIR/SDEIS) was unintentional. The text has been revised in the Final EIR/EIS to include NEPA terminology (i.e., substantial, moderate, or negligible). NEPA definitions are provided in Section 3.7.3.5. CEQA definitions are provided in Section 3.7.3.6. Also, please see Table S-3 in the Summary for a succinct presentation of significance conclusions.

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The baseline conditions identified in Section 3.7, Biological Resources and Wetlands, of the EIR/EIS and the associated impact analysis provide a sufficient level of information required by CEQA. Contrary to the comment, baseline conditions are described over the course of 26 pages in Section 3.7.4, Affected Environment, including descriptions of the regional setting, plant communities and land cover types (terrestrial and aquatic communities), native fauna assemblage, special-status species (Tables 3.7-3 and 3.7-4 and Appendix 3.7-A), habitats of concern (e.g., special-status plant communities, jurisdictional waters, critical habitat, essential fish habitats, conservation areas, and protected trees), and wildlife movement corridors. Impacts on biological resources are discussed over the course of 118 pages and include full descriptions of the type of impacts that are anticipated to occur and the mechanisms by which these would occur for each of the HST alternatives and the associated biological resources. The Affected Environmental (baseline conditions) and impact analysis were conducted through the assimilation of numerous data sources. These data sources include a tremendous amount of existing information found with the California Natural Diversity Database and California Wildlife Habitat Relationship System. Contrary to statements made in the comment, this information was supplemented with extensive field surveys that were conducted where permission to enter was granted. These surveys included wetland delineations, special-status plants surveys, and wildlife habitat-mapping surveys.

While access to all properties was not granted, public access to much of the footprint and adjacent areas (where permission to enter was not granted) was available, and windshield surveys were conducted to verify aerial signatures and map suitable habitats for special-status species, jurisdictional waters, and other biological resources (i.e., protected trees). Lastly, the impact analysis takes a conservative approach in assuming that special-status species are present within their range where suitable habitat exists. This impact analysis provides a worst-case scenario for analyzing impacts and maximizes compensatory mitigation requirements. To avoid and minimize impacts on a number of biological resources, preconstruction surveys have been proposed as mitigation.

The proposed mitigation measures presented in the Revised DEIR/Supplemental DEIS were selected to avoid and minimize impacts on biological resources. The commenter

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argues that the mitigation measures contained in the Revised DEIR/Supplemental DEIS lack "structure and specificity." As regards specificity, the mitigation measures in the Revised DEIR/Supplemental DEIS reflect the nature of the project (linear transportation), and the typical impacts encountered in this type of project; standard best management practices; the variety of sensitive habitat types present in the project footprint; listed species with the potential to be impacted by project activities; known wildlife movement corridors and areas of critical habitat connectivity; applicable USFWS Recovery Plan and Conservation Guideline standards; and resource agency and technical expert input.

Further field inspections, which are identified throughout the mitigation measures section of the Revised DEIR/Supplemental DEIS, will be conducted to account for areas that were either not surveyed during the preliminary resource studies, or where baseline conditions (such as sensitive species presence) may have changed. The Authority is currently working with resource agencies and local stakeholders to identify and implement the most effective mitigation strategy. The mitigation measures identified in the Revised DEIR/Supplemental DEIS are as specific and targeted as is possible at this stage of the environmental review process. It is the Authority's intention to follow all applicable laws, best management practices, permit conditions, and mitigation measure performance criteria identified in the Revised DEIR/Supplemental DEIS, issued permits, and final mitigation planning documents.

BO030-100

Refer to Standard Response FB-Response-BIO-02, FB-Response-GENERAL-01.

The baseline conditions identified in Section 3.7, Biological Resources and Wetlands, of the EIR/EIS and the associated impact analysis provide a sufficient level of information required by CEQA. Contrary to the comment, baseline conditions are described over the course of 26 pages in Section 3.7.4, Affected Environment, including descriptions of the regional setting, plant communities and land cover types (terrestrial and aquatic communities), native fauna assemblage, special-status species (Tables 3.7-3 and 3.7-4 and Appendix 3.7-A), habitats of concern (e.g., special-status plant communities, jurisdictional waters, critical habitat, essential fish habitats, conservation areas, and protected trees), and wildlife movement corridors. Impacts on biological resources are

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While access to all properties was not granted, public access to much of the footprint and adjacent areas (where permission to enter was not granted) was available, and windshield surveys were conducted to verify aerial signatures and map suitable habitats for special-status species, jurisdictional waters, and other biological resources (i.e., protected trees). Lastly, the impact analysis takes a conservative approach in assuming that special-status species are present within their range where suitable habitat exists. This impact analysis provides a worst-case scenario for analyzing impacts and maximizes compensatory mitigation requirements. To avoid and minimize impacts on a number of biological resources, preconstruction surveys have been proposed as mitigation.

The proposed mitigation measures presented in the Revised DEIR/Supplemental DEIS were selected to avoid and minimize impacts on biological resources. The commenter argues that the mitigation measures contained in the Revised DEIR/Supplemental DEIS lack "structure and specificity." As regards specificity, the mitigation measures in the Revised DEIR/Supplemental DEIS reflect the nature of the project (linear transportation), and the typical impacts encountered in this type of project; standard best management practices; the variety of sensitive habitat types present in the project footprint; listed species with the potential to be impacted by project activities; known wildlife movement corridors and areas of critical habitat connectivity; applicable USFWS Recovery Plan and Conservation Guideline standards; and resource agency and technical expert input.

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Further field inspections, which are identified throughout the mitigation measures section of the Revised DEIR/Supplemental DEIS, will be conducted to account for areas that were either not surveyed during the preliminary resource studies, or where baseline conditions (such as sensitive species presence) may have changed. The Authority is currently working with resource agencies and local stakeholders to identify and implement the most effective mitigation strategy. The mitigation measures identified in the Revised DEIR/Supplemental DEIS are as specific and targeted as is possible at this stage of the environmental review process. It is the Authority's intention to follow all applicable laws, best management practices, permit conditions, and mitigation measure performance criteria identified in the Revised DEIR/Supplemental DEIS, issued permits, and final mitigation planning documents.

BO030-101

Refer to Standard Response FB-Response-AG-07.

The analysis looked at each Williamson Act and FSZ contracted parcel to see if the HST footprint removed enough acreage for the parcel to be below the minimum acreage size. If the acreage was below the minimum size, then it was listed as it may be removed from the program. Final determinations of whether or not an individual parcel can remain in the Williamson Act or FSZ Contract is up to the discretion of the county. CEQA requires that all parcels that could be removed, be included as a worst-case scenario.

BO030-102

Section 3.14.3.2 identifies the significance criteria used in the Revised DEIR/Supplemental DEIS to determine the project's impacts on agricultural lands. The questions are based on sample questions presented in Appendix G, § 2, of the CEQA Guidelines. The last two questions listed in § 2 of the CEQA Guidelines Appendix G pertain to impacts to forest lands. As stated in the first paragraph in Section 3.14.1, Section 3.14 does not address forest lands because there are no forests between Fresno and Bakersfield.

BO030-103

Please see Section 3.14.4.2 of the Final EIR/EIS for revisions to the colors on the

BO030-103

figures in Section 3.14. Figures have also been revised to show FSZ lands as well. Given the large scale of the figures, these changes clarify the general locations of the Williamson Act and FSZ restricted lands, but are not substantial changes to the figures.

BO030-104

The section has been presented in a way that is similar to other sections in the Revised DEIR/Supplemental DEIS in order to provide a consistent format and reduce confusion on the part of the reader. The Fresno to Bakersfield Section is over 100 miles in length, and there is an extensive amount of information being presented. The Authority believes that the method it has chosen to present the material is a reasonable approach that minimizes redundancy.

BO030-105

The paragraph above Table 3.14-5 in Section 3.14 of the Revised DEIR/Supplemental DEIS explains that the numbers presented for the alternatives are compared to the BNSF Alternative. If the total acreage of impacted land for an alternative is less than for the corresponding portion of the BNSF Alternative, then the number is negative. This is clearly stated in the title of the table "Table 3.14-5 Important Farmlands Permanently Affected by Each Alternative Alignment in Comparison to the Corresponding Portion of the BNSF Alternative (acres)". The information presented in Table 3.14-5 is only meant to be a summary of the Important Farmland agricultural impacts. If one wanted to identify detailed impacts of the Wasco-Shafter Bypass they would need to look at Impact AG #4 – Permanent Conversion of Agricultural Land to Nonagricultural Use.

The Wasco-Shafter Bypass Alternative discussion under Impact AG #4 – Permanent Conversion of Agricultural Land to Nonagricultural Use, provides the total acres of Prime Farmland impacted by the Wasco-Shafter Bypass (667 acres) and the total impacted by the corresponding portion of the BNSF Alternative (683 acres). The Revised DEIR/Supplemental DEIS mistakenly stated that the Wasco-Shafter Bypass impacts 16 acres more than the corresponding portion of the BNSF Alternative. This error was corrected in the Final EIR/EIS to state that the Wasco-Shafter Bypass would impact 16 fewer acres. The 16 acre differential is consistent with the number provided in Table 3.14-5. The statement that virtually all of the land crossed by the Wasco-Shafter Bypass Alternative is classified as Prime Farmland is consistent with the text on page 3.14-47 in

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that only Prime Farmland impacts are discussed.

BO030-106

The numbers presented in Table 3.14-5 are a summary. A detailed analysis of all alternatives is provided later in the section; see Impact AG #4 in Section 3.14.5.3. With the various alternative alignments considered for the project, there are a total of 72 alternative ways for a single alignment to run from Fresno to Bakersfield. Providing an individual analysis of all 72 alternatives would have made the document unreadable. In order to provide information to compare alternatives in as concise a format as possible, the impacts of a single alternative from Fresno to Bakersfield, termed the BNSF Alternative, were described first. This was followed by a description of the impacts of each individual alternative segment (e.g., Hanford West Bypass and Allensworth Bypass) and a comparison of the difference in impacts between that alternative segment and the corresponding segment of the BNSF Alternative. In this way, a reader can quickly understand the implications of taking either the BNSF Alternative or one of the alternative segments for the particular environmental topic being evaluated.

BO030-107

The Kings/Tulare Regional Station–East Alternative is located on land classified as Farmland of Statewide Importance (see Figure 3.14-2). However, this land is not under Williamson Act or FSZ contract. Both the at-grade and below-grade options of the Kings/Tulare Regional Station–West Alternative are located on lands that are under Williamson Act contracts that are "nonrenewed." Nonrenewal means that the contracts no longer automatically renew each year and will expire at the end of the contracted term. The Final EIR/EIS text has been revised accordingly (see the discussion under Stations in Section 3.14.4.3).

BO030-108

The numbers presented in Table 3.14-6 are a summary. A detailed analysis of all alternatives is provided later in the section (see Impact AG #6 in Section 3.14-5.3).

With the various alternative alignments considered for the project, there are a total of 72 alternative ways for a single alignment to run from Fresno to Bakersfield. Providing an

BO030-108

individual analysis of all 72 alternatives would have made the document unreadable. In order to provide information to compare alternatives in as concise a format as possible, the impacts of a single alternative from Fresno to Bakersfield, termed the BNSF Alternative, were described first. This was followed by a description of the impacts of each individual alternative segment (e.g., Hanford West Bypass and Allensworth Bypass) and a comparison of the difference in impacts between that alternative segment and the corresponding segment of the BNSF Alternative. In this way, a reader can quickly understand the implications of taking either the BNSF Alternative or one of the alternative segments for the particular environmental topic being evaluated.

BO030-109

Refer to Standard Response FB-Response-GENERAL-01.

An EIR project description is intended to be general, not detailed (CEQA Guidelines §15124(c).) Final design or even advanced design of infrastructure is not required in the project description (*Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20, 36.) The question is whether the project description narrowed the scope of environmental review, or prevented full understanding of the project and its consequences (Ibid.).

Abundant substantial evidence in the record demonstrates the project description was more than adequate for the environmental analysis of the project. The term "15% design" is an engineering term of art that refers to the level of engineering prepared on HST project elements for the EIR. The 15% design generates detailed information, like the horizontal and vertical location of track, cross sections of the infrastructure with measurements, precise station footprints with site configuration, and temporary construction staging sites and facilities. The 15% design also yields a "project footprint" overlaid on parcel maps, which shows the outside envelope of all disturbance, including both permanent infrastructure and temporary construction activity. This 15% design translated into a project description in the EIR with 100% of the information that is required under CEQA Guidelines Section 1512447 (see *Dry Creek*, supra, 70 Cal.App.4th at pp. 27-36 [upholding EIR conceptual project description as inadequate when based on preliminary design]).

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A higher level of design is not necessary because 15% design provides enough information for a conservative environmental analysis. A higher level of design provides refinement, but does not yield more information needed for adequate CEQA review. For example, if a lead agency knows the location, size, and basic design of a building, it has enough information for environmental review. The details about whether the water system will use PVC or copper pipe, or whether windows will be vinyl or wood, are not necessary for assessing the impacts of building construction. Further, it is common practice with larger transportation infrastructure projects to prepare environmental analysis before completion of final design.

BO030-110

Detailed numbers are presented in the text below Table 3.14-8. These numbers provide the total number of acres affected by each alignment and alternative.
With the various alternative alignments considered for the project, there are a total of 72 alternative ways for a single alignment to run from Fresno to Bakersfield. Providing an individual analysis of all 72 alternatives would have made the document unreadable. In order to provide information to compare alternatives in as concise a format as possible, the impacts of a single alternative from Fresno to Bakersfield, termed the BNSF Alternative, were described first. This was followed by a description of the impacts of each individual alternative segment (e.g., Hanford West Bypass and Allensworth Bypass) and a comparison of the difference in impacts between that alternative segment and the corresponding segment of the BNSF Alternative. In this way, a reader can quickly understand the implications of taking either the BNSF Alternative or one of the alternative segments for the particular environmental topic being evaluated.

BO030-111

The table referred to by the commenter provides a comparison of the other alternatives to the BNSF Alternative. The last portion of the table also summarizes all of the impact comparisons.
With the various alternative alignments considered for the project, there are a total of 72 alternative ways for a single alignment to run from Fresno to Bakersfield. Providing an individual analysis of all 72 alternatives would have made the document unreadable. In order to provide information to compare alternatives in as concise a format as possible, the impacts of a single alternative from Fresno to Bakersfield, termed the BNSF Alternative, were described first. This was followed by a description of the impacts of each individual alternative segment (e.g., Hanford West Bypass and Allensworth Bypass) and a comparison of the difference in impacts between that alternative segment and the corresponding segment of the BNSF Alternative. In this way, a reader can quickly understand the implications of taking either the BNSF Alternative or one of the alternative segments for the particular environmental topic being evaluated.

BO030-111

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BO030-112

Refer to Standard Response FB-Response-GENERAL-04, FB-Response-SO-01, FB-Response-AG-01.

Federal and State laws require that the Authority pay fair market value for the land that is acquired. The land acquisition process occurs before construction. It is during this phase that the Authority's right-of-way agent will work with individual landowners to mitigate impacts from both construction and operation of the HST. It is during this phase that wells and other agricultural infrastructure will be modified so as to minimize impacts from the construction and operation of the HST. Prior to destruction of affected wells, the farm owner would have time to restore infrastructure before construction begins so as to minimize impacts on farm infrastructure.

BO030-113

The referenced table presents a comparison of the other alternatives to the BNSF Alternative. The last portion of the table also summarizes all of the impact comparisons.
With the various alternative alignments considered for the project, there are a total of 72 alternative ways for a single alignment to run from Fresno to Bakersfield. Providing an individual analysis of all 72 alternatives would have made the document unreadable. In order to provide information to compare alternatives in as concise a format as possible, the impacts of a single alternative from Fresno to Bakersfield, termed the BNSF Alternative, were described first. This was followed by a description of the impacts of each individual alternative segment (e.g., Hanford West Bypass and Allensworth Bypass) and a comparison of the difference in impacts between that alternative segment and the corresponding segment of the BNSF Alternative. In this way, a reader can quickly understand the implications of taking either the BNSF Alternative or one of the alternative segments for the particular environmental topic being evaluated.

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BO030-114

Refer to Standard Response FB-Response-SO-01, FB-Response-AG-06, FB-Response-HWR-02.

The Authority will fairly compensate landowners for loss or disruptions to their operations during the right-of-way acquisition process, including the relocation of existing dairy wastewater ponds and the regulatory costs of permitting relocated wastewater storage ponds. In addition, under the Project Design Features described in Section 3.14.6, the Authority will assign a representative to act as a single point of contact to assist each confined animal facility owner during the process of obtaining new or amended permits or other regulatory compliance necessary to the continued operation or relocation of the facility. The representative will work with the land owner to provide appropriate compensation for project impacts, which could include manure management controls such as those suggested by the commenter. For information on relocation assistance, see Volume II Technical Appendix 3.12-A, which has detailed information on the property acquisition and compensation process.

The EIR/EIS does not underestimate the impacts on dairies because the HST project will not increase flooding or flood hazard. Section 3.8.6 of the EIR/EIS states that floodplain crossings of the HST will be designed to maintain a 100-year floodwater surface elevation of no greater than 1 foot above current levels, or as required by state or local agencies, and will not increase existing 100-year floodwater surface elevations in FEMA-designated floodways.

BO030-115

Refer to Standard Response FB-Response-GENERAL-04, FB-Response-TR-02, FB-Response-HWR-01, FB-Response-AG-02, FB-Response-AG-04.

Road crossing impacts and the number of roads closed are discussed in Section 3.2, Transportation, on pages 3.2-72 to 3.2-78 of the Revised DEIR/Supplemental DEIS. This section explains the reasons why road crossing impacts are considered to have less-than-significant impacts. Table 3.8-7 in Section 3.9, Hydrology and Water Quality, lists the major irrigation canals and ditches crossed by the HST alternative alignments. Section 3.6, Public Utilities and Energy, evaluates impacts to irrigation pipelines and

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canals on page 3.6-60 of the Revised DEIR/Supplemental DEIS.

BO030-116

Refer to Standard Response FB-Response-AG-05.

The EIR/EIS concluded that the HST would have minimal effects on bees and pollination. This is confirmed by studies prepared by the Authority's Agricultural Working Group. As a result no further study into the economic effects of the loss of honey bees was required. The July 2012 Agricultural Working Group White Paper entitled "Bees and Pollination" examined the potential for the HST to adversely affect working honey bees. With regard to the potential for impact, the white paper reached the following conclusion:

"Depending on their strength, wind gusts may blow pollinators off blossoms if the crops are planted right near the tracks, but they most likely would right themselves and return to the blossom. Some pollinators are going to be killed upon impact with the trains, but this is no different from what they experience with more slowly moving cars, trucks, busses, etc. (sic) Beekeepers may need to consider different hive placement to avoid impacts should fast moving trains produce winds above the thresholds discussed."

The July 2012 white paper entitled "Induced Wind Impacts" concluded that:

"The HST induced wind is not excessive at the edge of the right-of-way.

"The effect of HST on blossoms and flowering trees is minimal due to the expected wind speed at the edge of the right-of-way. "

The Final White Papers are available on the Authority's website.

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Refer to Standard Response FB-Response-AG-05.

The Agricultural Working Group prepared a White Paper in July 2012 entitled "Induced Wind Impacts" that reviewed the currently available studies on wind generated by the

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passage of HSTs. This included a 2008 study of the induced wind profiles from the German Intercity Connect (ICE) high-speed train. The white paper concurred with the conclusion in the Revised DEIR/Supplemental DEIS that the HST will generate only low levels of wind beyond its right-of-way. For more information on the White Papers, see Section 3.14.

The studies utilized by the Agricultural White Papers are sufficient to provide support that the winds produced by the HST would only generate low levels of wind beyond the right-of-way. These studies are industry standards and it is reasonable to assume that wind velocity measurements made in 1977 would be the same today. No newer data for the US is currently available due to the US not having any operational high speed trains. These White Papers have gone through a stringent review process and were produced under supervision of the San Joaquin Valley agricultural commissioners. They were further peer reviewed by the California Almond Board and the State Beekeepers Association. None of these entities raised any issues with the papers' conclusions.

BO030-118

Additional analysis of induced winds and turbulent wakes from the HST can be found in Appendix D of the *Fresno to Bakersfield Section: Air Quality Technical Report* (Authority and FRA 2012a). In summary, this analysis contains additional reviews of available literature regarding induced winds, slipstreams, and turbulent wakes from high-speed trains. The analysis in Appendix D utilized two equations for the near-field and far-field estimate of induced winds from trains. The validity of the results of these equations was compared against another published study that measured the induced wind speed as a function of distance from the train side. A comparison of the measured results in this study to the results obtained using the empirical equations concludes that the measured induced wind speeds bounded the value estimated by the empirical equation.

The FRA document, “Assessment of Potential Aerodynamic Effects on Personnel and Equipment in Proximity to High-Speed Train Operations,” cited in Appendix D, does contain additional detail for other effects of induced winds. The FRA has also published a more recent review of studies in “The Aerodynamic Effects of Passing Trains to Surrounding Objects and People” in April 2008, which contains some specific studies regarding the interaction of opposing trains.

BO030-118

The Authority established an Agricultural Working Group (AWG) to assist the Authority on issues related to the agricultural industry and the HST. University, government agency, and agribusiness representatives belong to this group. The AWG prepared a white paper entitled "Pesticide Use Impacts" in 2012. That paper is available on the Authority's website.

The AWG concluded that the existence of the HST and its right-of-way will not in-and-of itself cause promulgation of new regulations to restrict the use of pesticides in close proximity (adjacent) to a new railway. The only impact will be consequent to the railway footprint causing a "set-back" from its right-of-way due to the need for farm equipment turnaround space.

The White Paper "Induced Wind Impacts" examined the potential for airflow from the train to create wind. It found that the induced wind speed would be 2.4 miles per hour at 30 feet from the train. This distance is well within the right-of-way of the system, so induced wind at the edge of the right of way would be very small. Note that HST train sets are very streamlined and applicable wind effects are not directly comparable to the wind effects of a typical freight train, even at higher speed. "Induced Wind Impacts" concluded the following regarding the potential for pesticide drift prevention space:

"There is the general practice that the application of pesticides is not performed in winds that exceed 5-10 mph. The actual limiting of application is determined by factors such as pesticide label instructions, the experience of the applicator, the perceived risk of drift involved and specific application conditions and regulations."

"The situation of the HST moving pesticides from an adjacent field into the HST Right-of-Way or into an adjoining field is not reasonably foreseeable as a result of the wind speeds noted above."

If pesticide applicators apply pesticides adjacent to the HST in accordance with the existing regulations, there should be no liability. If they fail to meet those regulations, the applicator would be liable for damages.

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Refer to Standard Response FB-Response-AG-05.

The Authority formed an Agricultural Working Group to assist the Authority on agricultural issues. The working group is composed of university, government agencies, and agri-business representatives. The group completed a white paper entitled Pesticide Use Impacts in 2012 (this paper is on the Authority's website). That white paper reports there would be no need for new spraying regulations around the HST as it would be treated like any other transportation corridor. Impacts to occupants in the HST were not analyzed as people riding the HST would be protected by the fully sealed rail cars the Authority is proposing to use. These rail cars would prevent any impacts from pesticides to the occupants.

Statements regarding the termination of aerial application of pesticides within ¼ mile of the HST alignment are an oversimplification of the aerial application process. To conduct aerial applications of pesticides, each farm must submit an application to its respective County Agricultural Commissioner detailing what types of pesticide they are proposing to spray. It is after receiving this information that the Agricultural Commissioner places restrictions on the farm's application of pesticides. These restrictions include, but are not limited to, buffer zones, aerial spraying height restrictions, mesh size limits, and wind-speed restrictions. When creating these restrictions, the Agricultural Commissioner is looking at nearby sensitive receivers (transportation corridors, houses, business, etc.), the proposed pesticides to be sprayed (different pesticides have different spraying restrictions based on the manufacturer's approved application rates), and several other factors that may influence environmental effects of pesticide application. As there are a large number of factors that influence the possible restrictions placed on aerial application of pesticides, an absolute statement of no spraying within ¼ mile is not reasonable. There are several options available to farmers so they may not have new spraying restrictions placed on them by their Agricultural Commissioner. For example, the farmers could change the pesticides they are proposing to use to ones that have fewer restrictions; they could also plant a different variety of crops adjacent to the HST, ones that do not require the application of pesticides with spraying restrictions.

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The Authority recognizes that possible changes to current spraying practice due to the HST may reduce the productivity of a farmer's remaining property. Those possible impacts would be taken into account by the appraiser at the time of right-of-way acquisition, and any diminution in value to a property owner's remaining parcel(s) will be estimated by the appraiser through the appraisal process. This involves appraising the remainder as it contributes to the whole property value before acquisition, and then appraising the remainder in the after condition as a separate parcel as though the project was constructed, including any estimated damages to the remainder, such as the cost of re-establishing irrigation systems, replacing wells, providing buffers for aerial spraying, etc. The difference between these "before" and "after" values is termed as severance damages and will reflect any loss in value of the remainder due to the construction in the manner proposed.

Land that may be impacted by new aerial application restrictions would still be used by the farmer for agricultural purposes, as would new turning areas at the end of crop rows. Therefore, there is no conversion of agricultural land due to potential project effects on current aerial spraying practices; however, it is an economic hardship in terms of reduced production for remaining parcels of a farm. As is the case with removing land planted in crops for use as equipment turning lanes, the need to provide a buffer for crop spraying will be analyzed and addressed at the appraisal stage with input from the property owners and managers, and experts in the field.

In April 2013, the Authority reached an agreement with agricultural interests on mitigation of agricultural land impacts for the Merced to Fresno Section of the HST System (Authority 2013). Under that agreement, the Authority will acquire agricultural conservation easements for its impact on Important Farmland (i.e., land classified as prime farmland, farmland of statewide importance, farmland of local importance, and unique farmland) at the following ratios:

- Important Farmland converted to nonagricultural uses either by direct commitment of the land to project facilities or by the creation of remnant parcels that cannot be economically farmed will be mitigated at a ratio of 1:1.
- Where HST project facilities would create a remnant parcel of 20 acres or less in size, the acreage of that remnant parcel will be mitigated at a ratio of 1:1.
- An area 25 feet wide bordering Important Farmland converted to nonagricultural uses

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by project facilities (not counting remnant parcels) will be mitigated at a ratio of 0.5:1.

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Refer to Standard Response FB-Response-AG-05.

The Authority formed an Agricultural Working Group to assist the Authority on agricultural issues. The working group is composed of university, government agencies, and agri-business representatives. The group completed a white paper entitled Pesticide Use Impacts in 2012 (this paper is on the Authority's website). That white paper reports there would be no need for new spraying regulations around the HST as it would be treated like any other transportation corridor. Impacts to occupants in the HST were not analyzed as people riding the HST would be protected by the fully sealed rail cars the Authority is proposing to use. These rail cars would prevent any impacts from pesticides to the occupants.

Statements regarding the termination of aerial application of pesticides within ¼ mile of the HST alignment are an oversimplification of the aerial application process. To conduct aerial applications of pesticides, each farm must submit an application to its respective County Agricultural Commissioner detailing what types of pesticide they are proposing to spray. It is after receiving this information that the Agricultural Commissioner places restrictions on the farm's application of pesticides. These restrictions include, but are not limited to, buffer zones, aerial spraying height restrictions, mesh size limits, and wind-speed restrictions. When creating these restrictions, the Agricultural Commissioner is looking at nearby sensitive receivers (transportation corridors, houses, business, etc.), the proposed pesticides to be sprayed (different pesticides have different spraying restrictions based on the manufacturer's approved application rates), and several other factors that may influence environmental effects of pesticide application. As there are a large number of factors that influence the possible restrictions placed on aerial application of pesticides, an absolute statement of no spraying within ¼ mile is not reasonable. There are several options available to farmers so they may not have new spraying restrictions placed on them by their Agricultural Commissioner. For example, the farmers could change the pesticides they are proposing to use to ones that have fewer restrictions; they could also plant a different variety of crops adjacent to the HST, ones that do not require the application of

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pesticides with spraying restrictions.

The Authority recognizes that possible changes to current spraying practice due to the HST may reduce the productivity of a farmer's remaining property. Those possible impacts would be taken into account by the appraiser at the time of right-of-way acquisition, and any diminution in value to a property owner's remaining parcel(s) will be estimated by the appraiser through the appraisal process. This involves appraising the remainder as it contributes to the whole property value before acquisition, and then appraising the remainder in the after condition as a separate parcel as though the project was constructed, including any estimated damages to the remainder, such as the cost of re-establishing irrigation systems, replacing wells, providing buffers for aerial spraying, etc. The difference between these "before" and "after" values is termed as severance damages and will reflect any loss in value of the remainder due to the construction in the manner proposed.

Land that may be impacted by new aerial application restrictions would still be used by the farmer for agricultural purposes, as would new turning areas at the end of crop rows. Therefore, there is no conversion of agricultural land due to potential project effects on current aerial spraying practices; however, it is an economic hardship in terms of reduced production for remaining parcels of a farm. As is the case with removing land planted in crops for use as equipment turning lanes, the need to provide a buffer for crop spraying will be analyzed and addressed at the appraisal stage with input from the property owners and managers, and experts in the field.

In April 2013, the Authority reached an agreement with agricultural interests on mitigation of agricultural land impacts for the Merced to Fresno Section of the HST System (Authority 2013). Under that agreement, the Authority will acquire agricultural conservation easements for its impact on Important Farmland (i.e., land classified as prime farmland, farmland of statewide importance, farmland of local importance, and unique farmland) at the following ratios:

- Important Farmland converted to nonagricultural uses either by direct commitment of the land to project facilities or by the creation of remnant parcels that cannot be economically farmed will be mitigated at a ratio of 1:1.
- Where HST project facilities would create a remnant parcel of 20 acres or less in size,

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the acreage of that remnant parcel will be mitigated at a ratio of 1:1.

- An area 25 feet wide bordering Important Farmland converted to nonagricultural uses by project facilities (not counting remnant parcels) will be mitigated at a ratio of 0.5:1.

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The Authority formed an agricultural working group to assist the Authority on agricultural issues. The working group is composed of university, government agencies, and agribusiness representatives. The group completed a white paper on pesticide use impacts in 2012 (this paper is on the Authority's website) That white paper reports the following:

At the present time there are numerous railways that traverse the San Joaquin Valley. Additionally, the Valley has established interstate and state freeways, highways, and local roadways, which include their respective right-of-ways, and all are considered "transportation corridors." Transportation corridors are recognized as part of the overall environment of the Valley. Regulations already exist relating to pesticide use in or near transportation corridors.

A new railway represents either a new impediment (where none previously existed) to customary agricultural practices or is an augmentation to an already existing transportation corridor footprint. Parcels where the new railway is proposed to be constructed adjacent and parallel to an established transportation corridor create a wider footprint to an existing corridor that is already subject to the protections prescribed in current pesticide use regulations. Growers adjacent to a widened transportation corridor will be managing their pesticide applications with the same use restrictions that were previously implemented due to their proximity to an existing corridor.

Growers in the path of the railway where the route leaves an established transportation corridor and creates a new corridor across their farmland will be subject to the implementation of existing regulatory restrictions, depending on the conditions and circumstances of the type of pesticide being used. All that would be new to the grower would be the enforcement of existing regulations for conditions that did not exist prior to the construction of the route through their property.

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Choices of crops or livestock to produce would be influenced more by forces outside of a high-speed train than the train itself. Similarly, the choice of what pesticide to use for any particular need should not be influenced by a high-speed train any more than already exists for any other transportation corridor in the locality. The expectation of pesticide regulators would be that any pesticide application would be made in compliance with all applicable laws, regulations, and conditions.

As to the question about buffer zones, their utilization will only be required where such safety protocol is called for when making an application adjacent to a transportation corridor. There are no buffer zones specifically addressing passenger trains; therefore, a passenger train traveling at a high rate of speed does not create a need for a buffer zone different from those already established.

As is the case with removing land planted in crops to use it for equipment turning lanes, the need to provide a buffer for crop spraying will be analyzed and addressed at the appraisal stage with input from the property owners and managers, and experts in the field.

The Agricultural Working Group prepared a white paper on pesticide regulations, which is available on the Authority's website. That paper provides a graph of induced wind speed relative to distance from the HST. At 10 feet from the site of the train, wind speed is estimated to be 11.2 miles per hour, which is within 5 to 10% of the predicted wind speed in the British study referenced in this comment. These speeds are comparable to average daily wind speeds from both the Merced to Fresno airport reporting stations. The HST right-of-way when at-grade is nominally 100 to 120 feet wide, with the two tracks centered and 16.5 feet apart. The distance of 10 feet falls well within the HST right-of-way. Therefore, the HST should not significantly influence spray droplet dispersion.

As noted in this comment, pesticide regulations require consideration of transportation corridors during application to avoid harm to people using the transportation corridor. This would apply to the application pf pesticides adjacent to the HST. Therefore, with the proper use of pesticides there should be no health impact to people on the HST.

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As discussed in Section 3.11.6 of the EIR/EIS, contractors would be required to develp and implement site-specific measures that address regulatory requirements to protect human health and property at construction sites. This includes provisions to protect construction workers from aerial application of pesticides.

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This has been corrected. Please see Section 3.14.6 of the Final EIR/EIS for revisions to the text in Section 3.14.6.

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This comment expresses the commenter's personal opinion. In a document of the size and complexity of the Revised DEIR/Supplemental DEIS (dictated largely by the size and complexity of the project itself), it is inevitable that some typographical errors and non-confrming formatting will be missed by the editors. However, this is rare and does not detract from the document's ability to convey the project description, setting, environmental consequences, mitigation measures, and other required components. Infrequent typographical errors or syntax that does not please the commenter have no relationship to the quality of the environmental analysis and content of the Revised DEIR/Supplemental DEIS.

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There is no conflict in these statements. The Authority and the Agricultural Working Group have reviewed the available literature for studies of the wind effect of HST operation. The results of the literature research are reflected in the discussion under Impact AG #10 in the EIR/EIS and in the July 2012 "Induced Wind Impacts" and "Bees and Pollination" white papers. Current studies indicate that the HST will generate only minimal wind effects beyond its right-of-way during operations.

At the same time, the Authority is committing to undertaking original research on this subject during the testing phase of the HST System and during the early years of operation. The original research on wind and noise generated by the HST will identify practical methods of minimizing effects on agricultural operations, if any.

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Refer to Standard Response FB-Response-AG-01.

The Revised DEIR/Supplemental DEIS identifies the conversion of agricultural land as a significant and unavoidable impact (see Sections 3.14.8 and 3.14.9). Agricultural land is a finite resource and cannot be replaced when permanently converted to another use. As such, there is no feasible mitigation measure that can reduce this impact to a less-than-significant level. Although the impact cannot be reduced below a level of significance, CEQA nonetheless requires that the Authority adopt mitigation measures when feasible (Public Resources Code Section 21002). That is what the Authority has done in this case.

The Revised DEIR/Supplemental DEIS includes mitigation measure AG MM#1, which commits the Authority to funding the acquisition of additional conservation easements in the affected San Joaquin Valley counties through the existing California Farmland Conservancy Program. The Program has been in operation for many years and has successfully preserved farmland by funding conservation easements entered into by willing sellers. The Program maintains a website that describes their many success stories (see http://www.conservation.ca.gov/dlrp/cfcp/stories/Pages/index.aspx). The California Farmland Conservancy Program already has criteria for funding conservation easements. The Authority has entered into an agreement to substantially fund additional acquisitions and will, in cooperation with the Program, establish additional funding criteria to prioritize acquisitions in areas subject to development pressure, in areas that can serve as urban separators, and in areas near the Kings/Tulare Regional Station -- subject of course to the availability of willing sellers (Authority and Department of Conservation 2013).

Under state law, conservation easements are perpetual easements and, unlike Williamson Act or FSZ contracts, are not subject to nonrenewal. This ensures the long-term preservation of this agricultural land.

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Refer to Standard Response FB-Response-GENERAL-22.

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The project study area, as identified in Section 3.1 of the RDEIR/SDEIR, extends south from Fresno and north from Bakersfield. It extends east from the BNSF Railway corridor and west from the Union Pacific (UPRR) corridor. The Fresno to Bakersfield Section crosses central Fresno County, northeastern Kings County, southwestern Tulare County, and northern Kern County. The No Project Alternative, as described in Chapter 2, Alternatives, focuses on the four county-region (Fresno, Kings, Tulare, and Kern). The cumulative impact analysis for each resource topic provided in Section 3.19 identifies the specific study area for each resource, depending on the scope and character of the resource. In some cases, the study area is more narrowly defined, such as for aesthetics and visual quality (i.e., defined as the project's viewshed), and in other cases the study area is more broadly defined, such as for air quality and greenhouse gas emissions, which defines the study area as the San Joaquin Valley Air Basin and the State of California, respectively.

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The cumulative projects lists in Appendix 3.19-A, Planned and Potential Projects and Plans, and Appendix 3.19-B, Planned and Potential Transportation Projects, represent the best available data at approximately the time of the issuance of the Notice of Preparation of the Project EIR/EIS for the Fresno to Bakersfield Section of the High-Speed Train System in 2009, as described in Section 3.19.2, Methods. The Friant Ranch Specific Plan and several other proposed residential developments are listed in Appendix 3.19-A.

The transportation analysis provided in Section 3.2 of the Revised DEIR/Supplemental DEIS includes those roadway projects that are required to be implemented for the construction of the HST project. For most locations in the Fresno to Bakersfield Section, roadway crossings would be provided approximately every mile or less, taking into account existing roadway infrastructure.

The cumulative impact analysis relative to land use also relies on the adopted city and county general plans, rather than listing individual projects (e.g., subdivisions) that may be approved pursuant to those plans. This approach is authorized under CEQA Guidelines Section 15130(b)(1)(B).

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The operation effects of those projects have been considered in the analysis. The regional transportation models used in the transportation analysis in Section 3.2, Transportation, incorporate transportation projects that are funded under the applicable Regional Transportation Plan through the 2035 horizon. Therefore, the transportation analysis is by nature a cumulative evaluation.

This approach is consistent with CEQA case law. (Rialto Citizens for Responsible Growth v. City of Rialto [2012] 208 Cal.App.4th 899 [use of regional traffic model upheld as basis for cumulative traffic impact analysis]).

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Refer to Standard Response FB-Response-GENERAL-01, FB-Response-GENERAL-21.

The operation effects of those projects have been considered in the analysis. The regional transportation models used in the transportation analysis in Section 3.2, Transportation, incorporate transportation projects that are funded under the applicable Regional Transportation Plan through the 2035 horizon. Therefore, the transportation analysis is by nature a cumulative evaluation. This approach is consistent with CEQA case law. (Rialto Citizens for Responsible Growth v. City of Rialto [2012] 208 Cal.App.4th 899 [use of regional traffic model upheld as basis for cumulative traffic impact analysis]).

The conclusions are supported by the expert opinion of the transportation analysts who prepared the traffic study.

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The operation effects of those projects have been considered in the analysis. The regional transportation models used in the transportation analysis in Section 3.2, Transportation, incorporate transportation projects that are funded under the applicable Regional Transportation Plan through the 2035 horizon. Therefore, the transportation analysis is by nature a cumulative evaluation. This approach is consistent with CEQA case law. (Rialto Citizens for Responsible Growth v. City of Rialto [2012] 208 Cal.App.4th 899 [use of regional traffic model upheld as basis for cumulative traffic

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impact analysis]).

Also, the cumulative project list has been updated in Section 3.19 of the FEIR/EIS and the cumulative impact analysis for each resource area analyzed the effects from the proposed project in addition to the effects from the cumulative project.

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Refer to Standard Response FB-Response-PU&E-02, FB-Response-GENERAL-01.

The cumulative projects list includes several solar projects in Kings County and Kern County (see Appendix 3.19-A, Planned and Potential Projects and Plans). These projects were identified during interviews with local and regional planning agencies, in existing applications for project entitlements or construction, or were analyzed in recent environmental documents. The analyses of potential cumulative impacts from these and other cumulative projects combined with the HST project alternatives are provided in Section 3.19.4.2, High-Speed Train Alternatives Contributions, of the Revised DEIR/Supplemental DEIS. The project team has and will continue to actively coordinate with utility providers during all the design phases of the project to identify, describe, and evaluate the project's potential impact on solar farms. Where the project would require modification of any electrical facility or electrical transmission, power, or distribution line, such modifications would be conducted in compliance with the California Public Utilities Commission's General Order 131-D. The Authority will assist utility providers in applying for a permit from the CPUC under CPUC General Order 131-D, including the need for any additional environmental review necessary for transmission line relocation or extension, or other new or modified facilities, and any localized increase in electrical loads identified as part of the more detailed design.

The energy analysis uses a dual baseline approach, meaning the HST Project's energy impacts are evaluated both against existing conditions and against background (i.e., No Project) conditions as they are expected to be in 2035. The analysis does not compare the HST to a hypothetical equivalent airplane service. Refer to Section 3.6 for more information about HST Project energy demand, impacts, and mitigation measures.

Regarding the comparison of the HST Project to airplane service, see Appendix 3.6-A,

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Existing Plus Project Conditions Energy Analysis. As stated therein, the number of plane flights statewide is anticipated to decrease with the HST due to travelers choosing to use the HST rather than fly to their destination. An average fuel consumption rate was calculated for aircraft based on the profile of aircraft currently servicing the San Francisco to Los Angeles corridor. The number of air trips removed due to the HST was estimated using the travel demand modeling analysis conducted for the project. The existing plus project scenario is estimated to reduce the number of statewide air trips by over 200 flights per day statewide, resulting in an energy reduction of approximately 9,800 MMBtus a day, as compared to the existing scenario, due to travelers choosing to use the HST rather than fly.

The Revised DEIR/Supplemental DEIS provides information about the HST System energy demand in Table 3.6-18, allowing utility providers to consider it in their demand forecasts. The HST System electrical demand would be 0.9% of California's 2010 electrical production, and 0.4% of planned 2030 electrical production. The Fresno to Bakersfield Section of the HST is estimated to require 78 megawatts (MW) of peak demand, which is within existing reserves. Utilities would consider this demand when estimating its necessary reserve. California's multi-state electricity grid would power the proposed HST project. The HST project would set a priority on the use of renewable energy sources and would not require the construction of a separate power source, although it would include the addition and upgrade of power lines to a series of substations positioned along the HST corridor. Management of California's electricity infrastructure and power supply involves demand forecasting, which includes buffer, or reserve, electricity generating capacity above expected peak demand that is available to call upon as needed. Please refer to the summary of electricity requirements in Section 2.2.6 for further information.

For these reasons, no impacts to the supply of electrical power to existing users would be anticipated. Therefore, no mitigation measures are required.

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Refer to Standard Response FB-Response-PU&E-03.

Comment noted. No specific inadequacy or particular impact to a specific utility is

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identified in the comment.

The Authority believes the cumulative impact conclusions for utilities and energy are well-documented.

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The section titled "Biological Resources" in Section 3.19.4.2, High-Speed Train Alternatives Contributions, addresses the cumulative impacts of the HST project combined with the cumulative projects listed in Appendices 3.19-A and 3.19-B. The methods used to determine the contribution of the HST alternatives to cumulative impacts are discussed in Section 3.19.2. As described in Standard Response GENERAL-01 (Tiering and Level of Detail in Analysis and Mitigation), under "Level of Detail in Analysis," this Revised DEIR/Supplemental DEIS provides a comprehensive analysis of the potential adverse and beneficial effects of the reasonable alternatives meeting the project's purpose and need and identifies appropriate measures to mitigate adverse impacts. This Revised DEIR/Supplemental DEIS is supported by technical reports and studies, including a transportation impact analysis, an air quality analysis, a noise and vibration analysis, an analysis of biological resources and wetland surveys, a community impact analysis, and an aesthetics and visual quality analysis, to list a few of the studies, all of which are available on the Authority's website.

As set forth in CEQA Guidelines Section 15130 and stated in Section 3.19.1 of the Revised DEIR/Supplemental DEIS, "the discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone."

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Refer to Standard Response FB-Response-BIO-01, FB-Response-40, FB-Response-43, FB-Response-GENERAL-05.

The section titled "Biological Resources" in Section 3.19.4.2, High-Speed Train Alternatives Contributions, addresses the cumulative impacts of the HST project combined with the cumulative projects listed in Appendices 3.19-A and 3.19-B. The methods used to determine the contribution of the HST alternatives to cumulative

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impacts are discussed in Section 3.19.2. As described in Standard Response GENERAL-01 (Tiering and Level of Detail in Analysis and Mitigation), under "Level of Detail in Analysis," this Revised DEIR/Supplemental DEIS provides a comprehensive analysis of the potential adverse and beneficial effects of the reasonable alternatives meeting the project's purpose and need and identifies appropriate measures to mitigate adverse impacts. This Revised DEIR/Supplemental DEIS is supported by technical reports and studies, including a transportation impact analysis, an air quality analysis, a noise and vibration analysis, an analysis of biological resources and wetland surveys, a community impact analysis, and an aesthetics and visual quality analysis, to list a few of the studies, all of which are available on the Authority's website. As set forth in CEQA Guidelines Section 15130 and stated in Section 3.19.1 of the Revised DEIR/Supplemental DEIS, "the discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone."

As described in Standard Response GENERAL-01 (Tiering and Level of Detail in Analysis and Mitigation), under "Level of Detail in Mitigation Measures," the identification of impacts and mitigation measures in the Revised DEIR/Supplemental DEIS meet the requirements of CEQA and NEPA. During the preparation of the impact sections, technical staff identified those impacts that would potentially exceed a level of significance. The Revised DEIR/Supplemental DEIS identifies mitigation measures that will avoid, reduce, or otherwise mitigate each such potentially significant impact. Feasible mitigation is expected to be adopted to address each significant effect that was identified in the Revised DEIR/Supplemental DEIS. The Revised DEIR/Supplemental DEIS identifies impacts that could not be reduced below the level of significance as significant and unavoidable.

Project impacts and mitigation for biological resources are discussed in Section 3.7, Biological Resources and Wetlands. As described therein, compliance with federal, state, and local government laws and regulations, along with the implementation of Mitigation Measures Bio-MM#1 through Bio-MM#65 would reduce significant impacts. For information regarding wildlife movement, see the discussion under "Biological Resources" in Section 3.19.4.2, High-Speed Train Alternatives Contributions.

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Compliance with detailed regulations that will require the implementation of specific mitigation for an affected species is acceptable mitigation under CEQA. See, for example, Rialto Citizens for Responsible Growth v. City of Rialto (2012) 208 Cal.App.4th 899 [the combination of mitigation measures and the results of the required consultations/permits that would be required if special-status species were found on the site were sufficiently detailed to meet the requirement for deferred mitigation]; Clover Valley Foundation v. City of Rocklin, Town of Loomis v. City of Rocklin (2011) 197 Cal.App.4th 200 [Courts have approved deferring the formulation of the details of a mitigation measure where another regulatory agency will issue a permit for the project and is expected to impose mitigation requirements independent of the CEQA process so long as the EIR included performance criteria and the lead agency committed itself to mitigation]; and, related, Oakland Heritage Alliance v. City of Oakland (2011) 195 Cal.App.4th 884 [reliance on California Building Code requirements for seismic design keep seismic risk of project at an acceptable level].

Monitoring will be implemented under the Mitigation Monitoring and Enforcement Plan adopted by the Authority and the Record of Decision adopted by the FRA. Monitoring will be undertaken in compliance with the requirements of the permitting agencies as set out in the applicable permits. The Authority will be responsible for ensuring that monitoring occurs.

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The HST project water use was evaluated in Section 3.6, Public Utilities and Energy, of the Revised DEIR/Supplemental DEIS and in Appendix 3.6-B, Technical Memorandum: Water Usage Analysis for CHST Fresno to Bakersfield Section. Section 3.19.4.2, High-Speed Train Alternatives Contributions, analyzes the cumulative impacts of the water use of the HST project combined with other cumulative projects. As described in the memorandum, water supply assessments are required (Senate Bill [SB] 221 and SB 610) for developments that would use an equivalent or greater amount of water as 500 homes (which is equivalent to 250 acre-feet/year). Because the HST stations and heavy maintenance facility (HMF) site alternatives are expected to require less than 250 acre-feet/year, a water supply assessment is not needed for these facilities, and no other special action to secure water from the local agencies will be needed.

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Further, Section 10910 of the Water Code states that a city or county must prepare a water supply assessment. The Authority is a state agency, not a city or county agency, and therefore, the provisons of Section 10910 et seq. of the Water Code do not apply.

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Refer to Standard Response FB-Response-GENERAL-01.

Water demand for HST project construction and operations is discussed in Section 3.6, Public Utilities and Energy, of the EIR/EIS and quantified in Appendix 3.6-B, Technical Memorandum: Water Usage Analysis for CHST Fresno to Bakersfield Section. Furthermore, Table 3.8-16 in Section 3.8, Hydrology and Water Resources, provides a comparison of regional groundwater demand and potential groundwater demand from HST facilities. Water demand under the cumulative scenario, which includes the HST project and other past, present, and reasonably foreseeable future projects, is qualitatively described in Section 3.19.4.2, High-Speed Train Alternatives Contributions, in "Hydrology and Water Resources" (specifically, under "Short- and Long-Term Project Effects" and "Water Use"). As described therein, future water demand in the Tulare Lake Basin has been modeled by DWR based on possible baseline scenarios. The majority of the scenarios predict a decrease in future water demand. The level of detail provided in the cumulative water analysis is consistent with that provided for other resource topics and is adequate as described in Standard Response GENERAL-01 (Tiering and Level of Detail in Analysis and Mitigation). The project will not result in a net increase in groundwater demand; therefore, it will not contribute to the cumulative groundwater condition.

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Refer to Standard Response FB-Response-BIO-01, FB-Response-GENERAL-05.

The project design incorporates best management practices (BMPs) to treat storm water runoff during construction and operations. Mitigation is not required because compliance with requirements in the law will reduce potential impacts to a less than significant level. Assuming that the HST project would violate mandatory permit provisions is too speculative to be considered in the Revised DEIR/Supplemental DEIS (See Oakland

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Heritage Alliance v. City of Oakland (2011) 195 Cal.App.4th 884, 906 ["[A] condition requiring compliance with regulations is a common and reasonable mitigation measure, and may be proper where it is reasonable to expect compliance"]).

The Revised DEIR/Supplemental DEIS analyzes each potential impact of the HST project and provides mitigation measures for significant impacts where feasible mitigation is available. Regarding water quality, the project design incorporates BMPs to treat storm water runoff during construction and operations, as described in Section 3.8.6, Project Design Features. Mitigation is not required because impacts would not be significant under NEPA and would be less than significant under CEQA because of compliance with design standards that will occur as part of the project.
Project impacts and mitigation for biological resources are discussed in Section 3.7, Biological Resources and Wetlands. As described therein, compliance with federal, state, and local government laws and regulations, along with the implementation of Mitigation Measures Bio-MM#1 through Bio-MM#65 would reduce significant impacts. For information regarding wildlife movement, see the discussion under "Biological Resources" in Section 3.19.4.2, High-Speed Train Alternatives Contributions.

Compliance with detailed regulations that will require the implementation of specific mitigation for an affected species is acceptable mitigation under CEQA. See, for example, Rialto Citizens for Responsible Growth v. City of Rialto (2012) 208 Cal.App.4th 899 [the combination of mitigation measures and the results of the required consultations/permits that would be required if special-status species were found on the site were sufficiently detailed to meet the requirement for deferred mitigation]; Clover Valley Foundation v. City of Rocklin, Town of Loomis v. City of Rocklin (2011) 197 Cal.App.4th 200 [Courts have approved deferring the formulation of the details of a mitigation measure where another regulatory agency will issue a permit for the project and is expected to impose mitigation requirements independent of the CEQA process so long as the EIR included performance criteria and the lead agency committed itself to mitigation]; and, related, Oakland Heritage Alliance v. City of Oakland (2011) 195 Cal.App.4th 884 [reliance on California Building Code requirements for seismic design keep seismic risk of project at an acceptable level].

Monitoring will be implemented under the Mitigation Monitoring and Enforcement

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Plan adopted by the Authority and the Record of Decision adopted by the FRA. Monitoring will be undertaken in compliance with the requirements of the permitting agencies as set out in the applicable permits. The Authority will be responsible for ensuring that monitoring occurs.

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Refer to Standard Response FB-Response-HWR-05, FB-Response-GENERAL-01.

The quoted text is not included in the Revised DEIR/Supplemental DEIS. Section 3.19.4.2, High-Speed Train Alternatives Contributions, of the Revised DEIR/Supplemental DEIS describes that the cumulative projects will also have to comply with water quality regulations and that, "In the context of the requirements for all construction projects to obtain permits to minimize impacts to water flow and water quality, the cumulative impact to water quality and hydrology would not be significant under NEPA and the project impact would not be cumulatively considerable under CEQA." This discussion refers to the requirement for future cumulative projects (not the HST project) to comply with existing applicable laws and regulations.

BO030-139

Refer to Standard Response FB-Response-GENERAL-04, FB-Response-GENERAL-14, FB-Response-GENERAL-01.

Section 3.12.8.2 describes the economic impacts of the HST project construction and operation periods, including effects on employment, sales tax revenues, property tax revenues, and agriculture. For information on new job creation and the resulting impacts on the regional economy, see Impact SO #13 in Section 3.12, Socioeconomics, Communities, and Environmental Justice . See also Section 5.1.2 in the Community Impact Assessment Technical Report for more detailed information about short-term and long-term job creation. For information on the HST operation-related property and sales tax revenue effects, see Impacts SO #3, SO #4, and SO #12 in Section 3.12. The methodologies for analyzing impacts on environmental justice populations, communities, and properties are detailed in Appendix A of the Community Impact Assessment Technical Report. For information on the economic effects on agriculture, see Impact SO #15 in Section 3.12. For a detailed analysis of the effects of the HST project on

Response to Submission BO030 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 18, 2012) - Continued

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agricultural production, see Appendix C of the Community Impact Assessment Technical Report. The analysis in that appendix provides these results by county and by project alternative in terms of the number of acres of agricultural production loss, the resulting annual revenue loss in both dollar and percent terms for each type of agricultural product, and the employment loss.

BO030-140

Refer to Standard Response FB-Response-SO-03.

Project construction requires the acquisition and relocation of a number of businesses. Relocation assistance would be provided to businesses as appropriate (see FB-Response-SO-03), and it is anticipated that many of the jobs at these businesses would follow the relocation. It is anticipated that many of the jobs at these businesses would be relocated and not lost. Section 3.12.8 provides information on the property acquisition impacts on businesses. The construction-related impacts to property and the mitigation for those impacts are a factor considered in the environmental review process. Each of the resource chapters in the Revised DEIR/Supplemental DEIS (Sections 3.2, Transportation; 3.3, Air Quality and Global Climate Change; 3.4, Noise and Vibration; etc.) includes a description of the affected environment, the project's construction impacts on that environment, and feasible means of reducing or avoiding those impacts. During construction, business impacts could include noise, vibration, dust, loss of parking, and traffic congestion in the areas of construction activities. Depending on the location of the construction activities and nature of the activities, the impacts on businesses would vary. Business-related impacts are more likely to occur near surface construction activities. Businesses that tend to rely on drive-by traffic to attract customers would experience the greatest impacts; however, it is also possible that some of these businesses may experience positive business impacts, as construction workers buy goods and services in addition to any regular customers.

The text in Section 3.19.4.2, High-Speed Train Alternatives Contributions, of the Revised DEIR/Supplemental DEIS has been revised in the Final EIR/EIS to state more specifically “Businesses that would relocate under the HST alternatives may receive benefits associated with the economic stimulation from construction and operation of the HST project.”

BO030-140

The San Joaquin Valley has greater unemployment and a lower per capita income than the state as a whole. The Authority has committed to a Small Business Program which requires the design-build and consultant teams to develop and implement a small business performance plan to achieve the goal of 30% small business participation. This, along with other hiring policies, will make sure that employment and business opportunities created by the project are accessible to the local communities, see the Authority’s website. Additionally, considerable additional revenues will be generated for existing businesses in the project area that supply goods and services to project construction (e.g., material and equipment suppliers such as gasoline, oil, parts and light bulbs) as well as businesses that supply goods and serves to construction workers and their families (e.g., retail stores, gas stations, banks, restaurants, service companies).

The overall project is expected to enhance local economies.

BO030-141

Refer to Standard Response FB-Response-GENERAL-03, FB-Response-SO-07.

At the system wide level, implementation of the HST is not expected to result in disproportionately high and adverse effects on minority or low-income populations, as described in the 2005 Statewide Program EIR/EIS and the 2008 Bay Area to Central Valley Program EIR/EIS (Authority and FRA 2005, 2008). The specific findings of the project-level analysis are described in Section 3.12, Socioeconomics, Communities, and Environmental Justice, of the EIR/EIS, and the cumulative findings are presented in Section 3.19.4.2, High-Speed Train Alternatives Contributions.

The environmental justice analysis adheres to the definition in Executive Order 12898 and U.S. Department of Transportation Order 5610.2, which defines an environmental justice effect as a "disproportionately high and adverse effect on minority and low-income populations." This is an adverse effect that is predominately borne by a minority population and/or a low-income population or that would be appreciably more severe or greater in magnitude for the minority and/or a low-income population than the adverse effect that would be suffered by the non-minority and/or non-low-income population along the project. Section 4.3 in the Community Impact Assessment Technical Report

Response to Submission BO030 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 18, 2012) - Continued

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identifies the environmental justice populations along the project alignment. The methodologies for identifying these populations are detailed in Appendix A of the Community Impact Assessment Technical Report. Section 5.3 in the Community Impact Assessment Technical Report provides detailed information on the potential for substantial environmental justice effects across resources along the project. Impacts SO #17 and SO #18 in Section 3.12 summarize these findings. Determination of potential environmental justice effects includes consideration of all possible mitigation. Mitigation of impacts to a less-than-significant level is not possible in every instance, so the effect is acknowledged and considered in decisions about project alternatives.

According to EO 12898, the offsetting benefits associated with the project should be considered as part of the environmental justice analysis. The project would provide benefits that would accrue to all populations, including communities of concern. These benefits would include improved mobility within the region, improved traffic conditions on freeways as modes divert to HST, improvements in air quality within the region, and new employment opportunities during construction and operation. The Authority has approved a Community Benefits Policy that supports employment of individuals who reside in disadvantaged areas and those designated as disadvantaged workers, including veterans returning from military service. It helps to remove potential barriers to small businesses, disadvantaged business enterprises, disabled veteran business enterprises, women-owned businesses, and microbusinesses that want to participate in building the High-Speed Rail system.

The Federal Railroad Administration and Department of Transportation issued a notice of intent to prepare an environmental impact statement for the California High-Speed Train Project for the Fresno to Bakersfield Section on October 1, 2009. This date established the year of the affected environment. At that time, the 2010 Census data had not been published. Therefore, the 2000 Census data were used for the socioeconomics analysis in addition to more recent data from the American Community Survey, the California Department of Finance, the California Employment Development Division, the California State Board of Equalization, and local data sources. The use of the 2010 Census data would not alter the conclusions of Impact SO#18 in Section 3.12 regarding the disproportionately high and adverse effects on environmental justice populations in the project area.

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As stated in Section 3.19.4.2, the study area for the station planning and land use cumulative impacts analysis includes Fresno, Kings, Tulare, and Kern counties; it is not a statewide analysis. Cumulative construction impacts from increased levels of noise, dust, and degradation of visual quality would result in substantial cumulative land use impacts under NEPA and significant cumulative impacts under CEQA. The HST alternatives' contribution would be substantial under NEPA and cumulatively considerable under CEQA. The cumulative impact during operation would be substantial under NEPA and significant under CEQA, because of the unplanned permanent conversion of land to transportation uses and the resulting land use incompatibilities.

The commenter's summary of the Revised DEIR/Supplemental DEIS pertaining to cumulative Station Planning, Land Use, and Development impacts (see Section 3.19.4.2, High-Speed Train Alternatives Contributions) is not consistent with the text therein.

The Revised DEIR/Supplemental DEIS summarizes the findings of the 2005 Statewide Program EIR/EIS and the 2008 Bay Area to Central Valley Program EIR/EIS pertaining to land use (Authority and FRA 2005, 2008). The general findings of those documents were as follows: where the HST alignment follows existing transportation routes, land use incompatibilities are less likely to occur; where the HST alignment creates a new transportation corridor, land use incompatibility is more likely to occur. The HST alignment from San Jose through the Central Valley is one of the locations where land use incompatibilities would be greater due to the creation of a new transportation corridor for some segments of the alignment.

These findings are generally consistent with the analysis of the Revised DEIR/Supplemental DEIS for the Fresno to Bakersfield Section, as described in Section 3.19.4.2, High-Speed Train Alternatives Contributions. The land use summary states as follows:

Cumulative construction impacts from increased levels of noises, dust, and degradation of visual quality would result in substantial cumulative land use impacts under NEPA, and significant cumulative impacts under CEQA. The HST alternatives' contribution

Response to Submission BO030 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 18, 2012) - Continued

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would be substantial under NEPA, and cumulatively considerable under CEQA.

The cumulative impacts during operation would be substantial under NEPA and would be significant under CEQA, because of the unplanned permanent conversion of land to transportation uses and the resulting land use incompatibilities. Although the HST alternatives beneficially support densification of land uses around HST stations in Downtown Fresno and Downtown Bakersfield, overall, the HST alternatives' contribution would be substantial under NEPA and cumulatively considerable under CEQA for the reasons described above.

As described in Standard Response GENERAL-01 (Tiering and Level of Detail in Analysis and Mitigation) under "Level of Detail in Mitigation Measures," the project-level EIR/EIS analyzed the potential project-specific impacts of the Fresno to Bakersfield Section of the HST System. Impacts and mitigation measures were identified in the Revised DEIR/Supplemental DEIS, consistent with the requirements of CEQA and NEPA.

BO030-143

Refer to Standard Response FB-Response-GENERAL-03.

The commenter has inaccurately characterized the analysis and conclusions of Revised DEIR/Supplemental DEIS's cumulative impact analysis and that contrary to the commenter's assertion, the Revised DEIR/Supplemental DEIS does not conclude that the project would have a less-than-significant cumulative land use impact.

Changes in land use surrounding the station alternatives are discussed in Section 3.13.5.3. The HST System is not like a freeway, with multiple on- and off-ramps; access would be limited to the stations. So, despite passing through rural areas, the HST project would not provide direct access to those areas. The project would provide opportunities to encourage more compact development around the urban stations and redirect development growth to central cities, in conjunction with the Senate Bill (SB) 375 regional efforts and future plans of the cities of Fresno and Bakersfield and would reduce the pressure for the future conversion of farmlands by encouraging new investments in urbanized areas rather than in peripheral areas.

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However, the Kings/Tulare Regional Station would be outside of Hanford and would provide an economic incentive for new development outside the city center. Although the project would provide for access to downtown from the station and includes a program to support agricultural preservation through conservation easements, it is likely that this station would result in agricultural conversion.

As discussed in the EIR/EIS, the Kings/Tulare Regional Station–East Alternative would convert about 22 acres of agricultural land in unincorporated Kings County into a transportation use. The Authority would work with the City of Hanford and Kings County to discourage growth in the vicinity of the station by restricting onsite parking, encouraging transit to the station from downtown Hanford, Visalia, and Tulare, and purchasing agricultural conservation easements from willing sellers of adjacent agricultural lands. However, it is likely that the location of the station at this site would attract at least transportation-oriented commercial development. Although current zoning allows for industrial uses of some of the land adjoining the Kings/Tulare Regional Station–East Alternative, most of the area continues to be zoned for agriculture and is in agricultural use. Also, the current plans and policies of the City of Hanford call for development to the west of the city and not to the east. This development direction is partially due to the lack of sewer conveyance facilities on the eastern edge of Hanford and the expense of extending this infrastructure to the potential station site. The EIR/EIS notes that the Kings/Tulare Regional Station–East Alternative would change the pattern and intensity of the use of the land, would be incompatible with adjacent land uses, and is likely to result in some unplanned changes in the use of existing adjacent land.

As discussed in Section 3.18.5.3, developing the Kings/Tulare Regional Station—East Alternative could remove a barrier to growth through the extension of infrastructure to the station. This would allow for more development to occur around the station and along the path of the infrastructure expansion. Developing around the stations may be desirable to business and residences by creating a direct transportation link to areas with more business and employment opportunities. That is, people could travel from Hanford to meetings or jobs in Bakersfield or Fresno more easily and quickly. Even given the Urban Reserve and agricultural land use designations surrounding the Kings/Tulare Regional Station–East Alternative area, the potential for the Authority to

Response to Submission BO030 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 18, 2012) - Continued

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purchase agricultural conservation easements around the station (easements must be purchased from willing sellers), and the Authority's vision for the Kings/Tulare Regional Station–East Alternative to act as a transit hub, the potential for indirect effects on land use in the area surrounding the Kings/Tulare Regional Station–East Alternative is high. Due to this high potential, the Authority could work with local government, the California Department of Conservation and non-governmental agencies to purchase agricultural conservation easements around the station to keep the land in agricultural production to discourage direct or indirect growth around this station. However, the EIR/EIS does acknowledge the potential for undesired growth to occur.

Section 3.13.5.3 discusses that the Kings/Tulare Regional Station–West Alternative would convert about 44 acres of agricultural, residential, and industrial land uses to a transportation use. Like the Kings/Tulare Regional Station–East Alternative, the Authority would work with the City of Hanford and Kings County to discourage growth in the vicinity of the Kings/Tulare Regional Station–West. However, it is likely that at least transportation-oriented commercial development would take place in the vicinity of the station, which would be incompatible with current land uses. Although the City of Hanford is directing growth on its western edge, future commercial development is envisioned closer to SR 198 than the Kings/Tulare Regional Station–West. Plans and policies for land use in the vicinity of the station site continue to be largely focused on agricultural uses. The Kings/Tulare Regional Station–West would change the pattern and intensity of the use of the land and would be incompatible with adjacent land uses. The presence of the station is likely to result in some unplanned changes in the use of existing adjacent land.

As discussed in Section 3.18.5.3, the Kings/Tulare Regional Station–West Alternative consists of unincorporated land adjacent to the City of Hanford's western Planning Area Boundary and within the Armona Community Planning Area of Kings County. The station site would be in an area categorized in the Kings County General Plan as Urban Fringe, in an area designated as a Primary sphere of influence. The Urban Fringe land use category is intended to represent residential, commercial, and industrial land uses immediately adjacent to Hanford. The station site land use designation within Kings County is Limited Agriculture, as is all adjacent land to the west, north, and east. Developing a station could remove a barrier to growth through the extension of

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infrastructure to the stations. This would allow for more development to occur around the stations and along the path of the infrastructure expansion. Developing around the stations may be desirable to business and residences by creating a direct transportation link to areas with more business and employment opportunities. Therefore, the EIR/EIS acknowledges that the potential for indirect effects on land use in the area surrounding the Kings/Tulare Regional Station–West Alternative is high.

Section 3.19.4.2, High-Speed Train Alternatives Contributions, identifies the densification of land uses around HST stations in Downtown Fresno and Downtown Bakersfield as being beneficial. However, this beneficial effect from the HST project would not negate the adverse land use effects described in the analysis herein. Also, it is important to note that the EIR/EIS does not apply this concept to agricultural areas.

See Standard Response GENERAL-03 (HST and Growth in the San Joaquin Valley – Measures to Realize Densification Benefits of HST – Role of Local Governments/Station Area Cities and Counties in Making it Happen) for details about how densification in existing urban areas (i.e., Fresno and Bakersfield) is considered to be beneficial to the economies of these areas and beneficial to agricultural areas by reducing the pressure for the future conversion of farmlands by encouraging new investments around the stations in Fresno and Bakersfield rather than in peripheral areas.

BO030-144

Refer to Standard Response FB-Response-AG-01.

The Authority disagrees with the commenter's interpretation of the cumulative impacts analysis for Agricultural Lands provided in Section 3.19.4.2, High-Speed Train Alternatives Contributions, of the Revised DEIR/Supplemental DEIS. The EIR/EIS notes that mitigation will be required, but will not avoid the impact on agricultural land. As stated therein:

With implementation of mitigation measures provided in Section 3.14.7, Agricultural Lands, cumulative impacts would be reduced. However, the loss of farmland cannot be replaced; therefore, the HST alternatives' contribution to cumulative agricultural impacts would remain substantial and cumulatively considerable under NEPA and CEQA,

Response to Submission BO030 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 18, 2012) - Continued

BO030-144

respectively.

The Revised DEIR/Supplemental DEIS does identify mitigation measures to reduce impacts on agricultural lands, including the purchase of conservation easements to protect an equivalent amount of farmland from future conversion (Mitigation Measure Ag-MM#1) through the existing California Farmland Conservancy Program. The Authority and FRA have determined that loss of farmland (ranging from 3,344 acres under the BNSF Alternative to about 3,380 acres under the Wasco-Shafter Bypass Alternative) is a significant impact that cannot be avoided or fully mitigated. It is important to note that the Authority and FRA are including Farmland of Local Importance in the definition of important farmlands—usually important farmlands include only Prime Farmland, Farmland of Statewide Importance, and Unique Farmland. Including Farmland of Local Importance adds about 5% (depending on the alternative) to the affected farmland acreage. Mitigation Measure Ag-MM#1 requires that the Authority (in partnership with the California Department of Conservation) acquire conservation easements to protect an equivalent amount of farmland from future conversion. The Authority anticipates working with local, regional, and state organizations and agencies to identify suitable land in the region and willing landowners to establish agricultural conservation easements on an acre-for-acre basis, ensuring permanent protection and long-term stewardship for working agricultural lands. Even with this commitment, the Authority and FRA recognize that the impacts cannot be mitigated to a less-than-significant level.

Mitigation Measure Ag-MM#1 requires that the Authority fund agricultural conservation easements on a 1 to 1 basis for each acre of agricultural land converted.

In April 2013, the Authority reached an agreement with agricultural interests on mitigation of agricultural land impacts for the Merced to Fresno Section of the HST System (Authority 2013). Under that agreement, the Authority will acquire agricultural conservation easements for its impact on Important Farmland (i.e., land classified as prime farmland, farmland of statewide importance, farmland of local importance, and unique farmland) at the following ratios:

- Important Farmland converted to nonagricultural uses either by direct commitment of the land to project facilities or by the creation of remnant parcels that cannot be economically farmed will be mitigated at a ratio of 1:1.
- Where HST project facilities would create a remnant parcel of 20 acres or less in size, the acreage of that remnant parcel will be mitigated at a ratio of 1:1.
- An area 25 feet wide bordering Important Farmland converted to nonagricultural uses by project facilities (not counting remnant parcels) will be mitigated at a ratio of 0.5:1.

BO030-144

Submission BO031 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 19, 2012)

Jonathan Wittwer
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OF COUNSEL
Gary A. Patton

October 19, 2012

[Sent by Email: Fresno_Bakersfield@hsr.ca.gov / boardmembers@hsr.ca.gov]

Fresno to Bakersfield Revised Draft EIR/Supplemental Draft EIS Comment
770 L Street, Suite 800
Sacramento, CA 95814

Dan Richard, Chair
Board of Directors
California High-Speed Rail Authority

RE: Revised Draft EIR/Supplemental Draft EIS Comment – Fresno to Bakersfield Section
Additional Comment on 1996 High-Speed Rail Corridor Evaluation and Environmental Constraints Analysis Final Report

Dear California High-Speed Rail Authority:

This comment letter is written on behalf of Citizens for California High Speed Rail Accountability (CCHSRA). It follows up on an earlier comment letter submitted by this law firm, and on comments filed by CCHSRA directly, by CCHSRA members individually, and by others on behalf of CCHSRA.

BO031-1

Our earlier comment letter on the Revised Draft EIR/Supplemental Draft EIS for the Fresno to Bakersfield Section of the proposed high-speed train project (RDEIR/SDEIS) noted that the RDEIR/SDEIS did not include an adequate investigation and analysis of a reasonable range of alternative alignments. We specifically noted that to comply with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) the Authority is legally required to carry out an analysis of the so-called "I-5" alignment, and thereafter to revise the EIR/EIS, and to circulate the revised document for further public review and comment.

Many others, besides CCHSRA, have had the same concern, and both CCHSRA, and others, have tried (within the very constrained and inadequate review period provided by the Authority) to gain access to past information apparently relied upon by the Authority to discard the I-5 alignment, a possible alignment that seems to CCHSRA (and to many others) to be an alignment that must certainly be included within a reasonable range of alternatives to be studied and evaluated in the EIR/EIS process.

Among those persons seeking information on the Authority's previous consideration of the I-5 alignment has been Rita Wespi, one of the co-founders of CARRD, Californians Advocating Responsible Rail Design. Attached to this letter is a recent exchange of emails between Ms. Wespi

BO031-1

and a member of the Authority's staff. As indicated in this exchange of emails, the Authority apparently cannot locate the Phase 1, 2, and 3 analysis and resulting documents, which were prepared in 1995 and 1996 as part of the 1996 High-Speed Rail Corridor Evaluation and Environmental Constraints Analysis Final Report.

These missing materials must be located and reviewed in connection with the current EIR/EIS review process. Of course, they must also be provided to the public for their review. One of the important purposes of the EIR/EIS process mandated by CEQA and NEPA is make sure that both decision makers and the public have full information on key environmental issues, before project approval decisions are made. The Authority's failure to consider this information, and to make it available to the public, undermines the integrity and adequacy of the RDEIR/SDEIS.

Thank you for taking this comment seriously. Both CEQA and NEPA provide that an adequate examination of a reasonable range of alternatives is at the heart of the EIR/EIS process. This kind of examination has not occurred in this case. The Authority must make the missing documents available to the public, and must itself utilize this information in a review of the I-5 alignment, as part of the Authority's consideration of a reasonable range of alternatives that is absolutely mandated by CEQA and NEPA. Until this is done, the RDEIR/SDEIS is inadequate as a matter of law.

BO031-2

Respectfully submitted,

WITTWER & PARKIN, LLP
By: Gary A. Patton, Of Counsel

cc: Rita Wespi, CARRD

Submission BO031 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 19, 2012) - Continued

From: "High-Speed Rail Records" <records@hsr.ca.gov>
Date: October 18, 2012 2:05:36 PM CDT
To: "ritawespi@calhsr.com" <rwespi@gmail.com>
Subject: RE: Request for 1996 Phase 1, 2 and 3 evaluations

Ms. Wespi,

The Authority has been unable to locate responsive records per your request below.

Sincerely,

Kyle Wunderli
CHSRA Public Records Staff
www.cahighspeedrail.ca.gov
==========

From: ritawespi@calhsr.com [mailto:rwespi@gmail.com]
Sent: Friday, October 05, 2012 11:17 AM
To: High-Speed Rail Records
Subject: Request for 1996 Phase 1, 2 and 3 evaluations

BO031-3

I would like to request the Phase 1, 2, and 3 analysis and resulting documents which were prepared in 1995 and 1996 as part of the 1996 High-Speed Rail Corridor Evaluation and Environmental Constraints Analysis Final Report.

Phase 1 conclusions were presented to the IHSR Commission in May 1995; if there is an accompanying report or presentation, I would like to request it.

The Phase 2 environmental evaluation findings were presented to the IHSR Commission on December 19, 1995 and the engineering evaluation findings on February 2, 1996. Again, accompanying reports or presentations are requested.

Thanks,

Rita Wespi
Co-founder, CARRD - Californians Advocating Responsible Rail Design
Phone: 650-269-1781
Email: ritawespi@calhsr.com
Web: www.calhsr.com

Genevieve Baldini-Koutchis

From: Gary A. Patton <gapatton@wittwerparkin.com>
Sent: Friday, October 19, 2012 4:13 PM
To: boardmembers
Subject: CCHSRA Comment Follow Up Comment Letter
Attachments: GAP Followup Comment Letter on RDEIR-SDEIS Re I-5 Reports.pdf

Importance: High

The attached is a follow up letter, commenting on the RDEIR/SDEIS for the Fresno-Bakersfield segment of the proposed HST. It is being sent by regular mail, postmarked today, as well.

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Response to Submission BO031 (Gary A. Patton, Citizens for California High Speed Rail Accountability (Atty. For) Wittwer & Parkin, LLP, October 19, 2012)

BO031-1

Refer to Standard Response FB-Response-GENERAL-02.

The project EIR/EIS for the Fresno to Bakersfield Section relies on information from the Statewide Program EIR/EIS for the California HST System. The Statewide Program EIR/EIS considered alternatives on I-5 and SR 99 as well as on the BNSF corridor. The Record of Decision for the Statewide Program EIR/EIS selected the BNSF corridor as the preferred alignment for the Fresno to Bakersfield Section. Further engineering and environmental studies within the broad BNSF corridor have resulted in practicable alternatives that meet most or all project objectives, are potentially feasible, and would result in certain environmental impact reductions in comparison to one another. Accordingly, the Project EIR/EIS for the Fresno to Bakersfield Section focuses on alternative alignments along the general BNSF Railway corridor. The I-5 corridor was again considered during the environmental review of the Fresno to Bakersfield Section and was eliminated from further consideration as described in FB-Response-GENERAL-02.

Because the Authority conducted analysis of alternative alignments that follow SR 99/UPRR and the I-5 corridor in the 2005 Program EIR/EIS and determined that these alternatives were not practicable, they were not carried forward in the Project EIR/EIS. This is consistent with the provisions of Proposition 1A which included the understanding that the I-5 alternative need not be analyzed further. Streets and Highways Code Section 2704.04(a), enacted by Proposition 1A, provides that:

"(a) It is the intent of the Legislature by enacting this chapter and of the people of California by approving the bond measure pursuant to this chapter to initiate the construction of a high-speed train system that connects the San Francisco Transbay Terminal to Los Angeles Union Station and Anaheim, and links the state's major population centers, including Sacramento, the San Francisco Bay Area, the Central Valley, Los Angeles, the Inland Empire, Orange County, and San Diego *consistent with the authority's certified environmental impact reports* of November 2005 and July 9, 2008." (emphasis added)

The procedural requirements for NEPA and CEQA were followed during the environmental review of the Fresno to Bakersfield HST Section. As discussed in Section

BO031-1

2.3.1 of the EIR/EIS, the Authority implemented an alternatives analysis process to identify the full range of reasonable alternatives for the project as required under 14 CCR 15126.6 and 40 CFR 1502.15(a). This range of alternatives was analyzed in the EIR/EIS. Neither CEQA nor NEPA require the environmental document to analyze alternatives that are not practicable to implement.

The Authority looked for the requested I-5 analysis (referred to as the "Phase 1, 2, and 3 analysis and resulting documents" by the commenter) at the time of the original PRA request and was unable to locate the information. The Authority has since located the requested analysis and provided it to the requestor (Authority 2013).

BO031-2

Refer to Standard Response FB-Response-GENERAL-02.

The requested reports have been made available to the public.

BO031-3

The Authority looked for the requested Interstate 5 (I-5) analysis (referred to as the "Phase 1, 2, and 3 analysis and resulting documents" by the commenter) at the time of the original Public Records Act (PRA) request and was unable to locate the information. The Authority has since located the requested analysis and provided it to Ms. Wespi (Fellenz 2013).

Submission BO032 (George J. Mihlsten, Coffee-Brimhall, LLC (Atty. For) Latham & Watkins, LLP, October 19, 2012)

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File No. 006526-0176

October 19, 2012

BY FEDEX

Mr. Jeff Morales
Chief Executive Officer
California High-Speed Rail Authority
Fresno to Bakersfield Revised Draft EIR/Supplemental Draft EIS Comment
770 L Street, Suite 800
Sacramento, CA 95814

Re: California High-Speed Train Project Fresno to Bakersfield Section Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement (State Clearinghouse No. 2009091126)

Dear Mr. Morales:

Here is Coffee-Brimhall, LLC's comment letter on the Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement for the Fresno to Bakersfield section of the California High-Speed Train Project.

An electronic version of the enclosed was sent by email to Fresno_Bakersfield@hsr.ca.gov at 3:51 p.m. on October 19, 2012. This hard copy is provided to you for your convenience.

Sincerely,

George J. Mihlsten
of LATHAM & WATKINS LLP

Enclosure

LA\2945628

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File No. 006526-0176

October 19, 2012

BY FEDEX AND EMAIL

Mr. Jeff Morales
Chief Executive Officer
California High-Speed Rail Authority
Fresno to Bakersfield Revised Draft EIR/Supplemental Draft EIS Comment
770 L Street, Suite 800
Sacramento, CA 95814

Re: California High-Speed Train Project Fresno to Bakersfield Section Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement (State Clearinghouse No. 2009091126)

Dear Mr. Morales:

We are writing on behalf of our client, Coffee-Brimhall LLC, to comment on the Revised Draft Environmental Impact Report/Environmental Impact Statement ("RDEIR") for the Fresno to Bakersfield section of the California High-Speed Train Project ("Project" or "HST Project") prepared for the California High-Speed Rail Authority and Federal Railroad Administration ("FRA").

Coffee-Brimhall, LLC owns several parcels of land adjacent to the intersection of Coffee Road and Brimhall Road in Bakersfield and has received approvals for Bakersfield Commons, a two million square foot and 425 dwelling unit mixed-use development on those parcels ("the Bakersfield Commons property"). We have numerous concerns with the RDEIR, which studies two alignments that cross the Bakersfield Commons property. Not only will both alignments cause substantial temporary and permanent takings of the property, they create numerous significant and unstudied or unmitigated impacts on the Bakersfield Commons property and adjacent areas. These potentially significant impacts would have a significant effect on the future development of Bakersfield Commons. This is simply unacceptable to our client and to the Bakersfield community, which strongly supports the Bakersfield Commons project and looks forward to the economic engine that a project of the magnitude that Bakersfield Commons will be.

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The RDEIR does not comply with the California Environmental Quality Act ("CEQA") and the CEQA Guidelines, California Code of Regulations, title 14, Section 15000 *et seq.*, or the National Environmental Policy Act ("NEPA"). The RDEIR violates CEQA and NEPA by, among other deficiencies: (1) improperly tiering from the Statewide Program EIR/EIS for the

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HST Project; (2) improperly piecemealing consideration of Project impacts; (3) failing to provide a project description that satisfies CEQA and NEPA requirements; (4) improperly connecting the Project Purpose and Need and the range of alternatives studied in the RDEIR; (5) failing to clarify project alternatives in accordance with CEQA and NEPA, and failing to analyze alternatives according to the statutes; (6) providing a flawed description of the environmental setting of the Project; (7) failing to analyze the environmental effects of mitigation measures; (8) impermissibly deferring mitigation; (9) providing an inadequate and flawed analysis of the no project alternative; (10) improperly analyzing greenhouse gas emissions impacts; and (11) improperly analyzing cumulative impacts.

Our detailed comments analyzing the deficiencies of the RDEIR are set forth in this letter. Additionally, Matrix Environmental has prepared a peer review report outlining additional flaws in the RDEIR; that report is included as Attachment A.

To correct the RDEIR's deficiencies, the Authority and the FRA must again issue a Re-Circulated RDEIR responding to the comments contained herein and those received from other key stakeholders. In addition, the Authority and the FRA must re-issue the 2005 Statewide Program EIR/EIS once the final alignments for all segments of the HST Project have been chosen. The revised and recirculated documents must contain a complete and comprehensible description of the Project and its alternatives, an accurate analysis of the environmental impacts involved, and proposed mitigation measures that address fully the Project's significant impacts.

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I. INTRODUCTION

If constructed in its entirety, the Authority forecasts that the California High-Speed Train system will create numerous benefits for California. Before any of the Authority's hoped for, and in many cases unsupported benefits can be provided, the Authority is mandated to study the environmental impacts of the Project under CEQA and NEPA. This is not a mere check the box exercise. A project of the magnitude proposed has the potential to uproot communities and long-established ways of life up and down the State.

Unfortunately, the Authority has yet again put forth an environmental document that is so fundamentally inadequate that it must again start the process anew. The RDEIR is legally inadequate under both CEQA and NEPA on both a structural level and an individual impact assessment level.

For example, although the Authority and the FRA analyze the Fresno to Bakersfield Segment as part of a tiering scheme using the 2005 Statewide Program EIR/EIS as a first-tier environmental review document, the RDEIR improperly tiers from the prior document, resulting in improper piecemealing of HST Project impacts. Further, the RDEIR does not provide a project description that meets the requirements of CEQA and NEPA; not one of the elements of the proposed project, including a proposed alignment, station locations, and Heavy Maintenance Facility location, is defined in the RDEIR, forcing the public to analyze impacts of a project that is of indeterminate scope and site. Likewise, the RDEIR does not analyze alternatives of the Project as alternatives are defined under CEQA and NEPA. Instead, the RDEIR presents a multitude of alignments, station locations, and Heavy Maintenance Facility locations, any

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combination of which could be the proposed project. The public has no ability to understand the hundreds of different combinations that could eventually be a "project." Certainly there is no way the public could even guess as to the possible impacts. Alternatives are used under CEQA and NEPA to measure project impacts against feasible alternatives that would lessen or avoid project impacts, but the RDEIR fails to accomplish this.

The RDEIR also provides a flawed description of the environmental setting against which Project impacts are to be measured and fails to analyze the environmental impacts of mitigation measures proposed in the RDEIR, in violation of CEQA and NEPA. Mitigation is impermissibly deferred, and the analysis of the No Project Alternative is fundamentally flawed. The RDEIR's analysis of greenhouse gas emissions impacts and cumulative impacts are also inadequate. Compounding this, the Authority and the FRA failed to comply with CEQA and NEPA's public participation mandates. The RDEIR is massive, comprising more than 2,000 pages of the main document, nearly 2,500 pages of technical appendices and alignment plans, and more than 19,000 pages of technical reports. And in all this data and information, there is no clearly defined project or single set of alternatives. The Authority also failed to provide the RDEIR's technical reports to members of the public requesting copies of the document for review, further violating public participation requirements in CEQA and NEPA.

The Project would inflict serious impacts on the Bakersfield Commons project, a 255-acre mixed-use development near the intersection of Coffee Road and Brimhall Road in Bakersfield. The Project would erect a large rail line of between 74 and 96 feet in the air across the Bakersfield Commons property. The RDEIR fundamentally fails in its mission to analyze impacts to Bakersfield Commons, devoting only two paragraphs to impacts on the property. In addition, the Project would create significant impacts in the City of Bakersfield by running the proposed train line through the heart of Bakersfield to a Downtown Bakersfield station. The RDEIR should have analyzed an alternative that avoided locating the train line in the center of Bakersfield.

To correct these myriad deficiencies, the Authority and the FRA must revise the RDEIR to include an alignment alternative that avoids significant impacts to the Bakersfield Commons property and Downtown Bakersfield. The revised document must be recirculated to give members of the public an opportunity to analyze the Project's impacts.

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II. GENERAL COMMENTS

A. The RDEIR Improperly Tiers From The Programmatic EIR/EIS

Both CEQA and NEPA encourage "tiering" of projects in limited circumstances. Under CEQA, tiering is defined as "the coverage of general matters and environmental effects in an environmental impact report prepared for a policy, plan, program or ordinance followed by narrower or site-specific environmental impact reports which incorporate by reference the discussion in any in any prior environmental impact report and which concentrate on the environmental effects which (a) are capable of being mitigated, or (b) were not analyzed as significant effects on the environment in the prior environmental impact report." (Pub. Res. Code § 21068.5.) Similarly, under NEPA, "[a]gencies are encouraged to tier their environmental

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impact statements to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review." (40 C.F.R. § 1502.20.)

However, to qualify for the use of tiering, later projects must:

- Be consistent with the program, plan, policy, or ordinance for which an EIR has been prepared and certified;
- Be consistent with applicable land use plans and zoning of the city, county, or city and county in which the later project would be located; and
- Not trigger the need for a subsequent EIR or supplement to an EIR.

(Pub. Res. Code § 21094(b).) It is crucial, therefore, that when an agency chooses to use a tiered environmental review process, a second-level project must be consistent with the first-tier program or plan, and must be consistent with applicable land use plans and zoning of the jurisdiction in which the later project will be located.

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Here, the RDEIR's explanation of how it can be held to tier from earlier program-level environmental review documents is inadequate and erroneous. The RDEIR states that it is a second-tier EIR/EIS that tiers off the 2005 Statewide Program EIR/EIS, the 2008 Bay Area to Central Valley Program EIR/EIS, and the 2010 Revised Final Program EIR for the Bay Area to Central Valley HST. (RDEIR, p. S-4.) However, the RDEIR does not clearly or consistently explain how its analysis relies upon any of these previously prepared documents. With thousands of pages of background analysis to digest, and thousands of pages of project-level analysis, technical reports, and appendices to review, the public is left wondering how this project-level document fits into the overall analytical structure of this complicated tiering scheme.

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In addition, it does not appear that the alignment alternatives analyzed in the RDEIR were analyzed in the prior first-tier environmental review documents. The 2005 Statewide Program EIR/EIS, for example, carried forward several alignments, all involving the UPRR right-of-way and/or the BNSF right-of-way. (Statewide Program EIR/EIS, pp. 2-63 – 2-64.) As to the Bakersfield Subsection of the RDEIR, only the BNSF Alignment was identified for analysis in the prior documents. On the other hand, the Bakersfield Hybrid and Bakersfield South Alignments were never mentioned in the first-tier document. This change has led to environmental impacts of wildly different scopes and intensities from the initial analysis, and an RDEIR that is not consistent with the first-tier environmental review documents prepared for the HST Project.

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Circumstances have also changed significantly since the preparation of the first-tier environmental review documents. Such changed circumstances include, but are not limited to, changes in ridership projections, increases in fares to ride the proposed HST, increasing costs to complete the HST system, and uncertainty over the future of public financing for the HST Project. These changed circumstances render the analyses contained in the first-tier environmental review documents out of date. The assumptions used by the first-tier

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environmental review documents to analyze impacts of the HST Project may no longer be valid, and are no longer able to provide the evidence needed to support the conclusions reached in the RDEIR. Specifically, conclusions regarding the impacts and benefits of the Project on job creation, air quality and GHG emissions, and vehicle miles traveled (VMT) reductions may not be valid. To the extent that these changed circumstances cause a disconnect between impacts analyses in the second-tier RDEIR and impacts analyses in the first-tier documents, the RDEIR may not tier off the first-tier documents.

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Finally, the RDEIR must be compatible with applicable land use plans of each jurisdiction in which it will be located in order to qualify for tiering under CEQA. The RDEIR asserts that the Project would be compatible with some elements of the Metropolitan Bakersfield General Plan, including an implementation measure to cooperate in studies to pursue the establishment of high-speed rail service for the plan area. The RDEIR acknowledges, however, that "present city administration is not in favor of the project." In addition, the Project would be inconsistent with many provisions of the Metropolitan Bakersfield General Plan Land Use Element. These include, but are not limited to:

- Goal 3: Accommodate new development which is compatible with and complements existing land uses.
- Goal 7: Establish a built environment which achieves a functional and visual relationship among individual buildings and sites.
- Policy 41: Provide for the intensification of downtown Bakersfield for governmental, financial, professional office, retail, residential, cultural, specialty, and supporting uses.
- Policy 53: Ensure that land use and infrastructure development are coordinated.
- Policy 55: Provide for the mitigation of significant noise impacts on adjacent sensitive uses from transportation corridor improvements.

These inconsistencies disqualify the Project for tiering analysis under CEQA. The RDEIR cannot rely on the first-tier documents for analysis, conclusions or mitigation, and must instead include a new and current analysis of conditions and impacts in the Fresno to Bakersfield corridor, specifically, and those conditions and impacts that can be expected on a systemwide and cumulative basis.

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B. The RDEIR Improperly Piecemeals The Project

CEQA prohibits public agencies from "piecemealing" or segmenting a project by splitting it into two or more parts and then analyzing the parts individually. The CEQA Guidelines define a "project" as "the whole of an action" that may result in either a direct or reasonably foreseeable indirect physical change in the environment. (CEQA Guidelines, § 15378(a).) In general, the lead agency must fully analyze each "project" in a single environmental review document. This approach ensures "that environmental considerations not

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become submerged by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have disastrous consequences." (*Burbank-Glendale-Pasadena Airport Authority v. Hensler* (1991) 233 Cal.App.3d 577, 592.)

California law has adopted the NEPA concept of "independent utility," which states that piecemealing does not occur when one segment of a larger project evaluated in a separate environmental review document serves a viable purpose even if the later segments are never built. (*Del Mar Terrace Conservancy, Inc. v. City Council of the City of San Diego* (1992) 10 Cal.App.4th 712, 732-33.) The corollary conclusion is that a project lacking independent utility that is part of a larger scheme may not be broken into pieces, and instead must be evaluated along with its other component parts in a single, cohesive document.

Here, the Authority and the FRA have violated CEQA's prohibition against piecemealing by considering the impacts of the Fresno to Bakersfield segment in isolation while taking advantage of assumed statewide benefits of the Project to measure those impacts. The Authority and the FRA evaluated the HST Project in the 2005 Statewide Program EIR/EIS. However, that document could not analyze environmental impacts of the entire HST Project adequately because many vital details of the project, including preferred alignments, station locations, and Heavy Maintenance Facility locations, were not known at the time of the 2005 Statewide Program EIR/EIS and, indeed, remain undecided to this day.

It should be noted that the nature and extent of statewide and localized impacts resulting from the HST Project have changed significantly since the 2005 Statewide Program EIR/EIS, and as described above, that document is not a proper programmatic EIR from which to evaluate individual segments of the Project. Decisions made in the Fresno to Bakersfield Segment EIR/EIS process as well as other later individual segment environmental review processes may fundamentally change the impacts conclusions reached in the 2005 Statewide Program EIR/EIS and will unmoor the individual segments from HST Project as a whole.

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In this way, the RDEIR for the Fresno to Bakersfield Segment is being evaluated as an independent "project," along with other independent "projects" for each segment of the HST system. The RDEIR for the Fresno to Bakersfield Segment considers impacts located only along the Fresno to Bakersfield route, and ignores impacts of the HST Project which are located along other segments. The RDEIR, however, uses benefits of the statewide project in measuring the extent of these impacts. This approach violates CEQA's prohibition against piecemealing because it considers the impacts of the Fresno to Bakersfield segment in isolation while taking advantage of assumed statewide benefits of the Project to measure those impacts. The Authority and the FRA must re-issue a revised Program EIR/EIS that conforms with alignment, station location, and Heavy Maintenance Facility location options selected for all segments of the HST Project in order to allow the public an opportunity to meaningfully evaluate the environmental impacts of the Project as a whole.

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In addition, the Fresno to Bakersfield Segment has no "independent utility." The California High-Speed Rail Program Revised 2012 Business Plan assumes, for purposes of its economic conclusions, that the entire HST Project will achieve full buildout, and many of the individual environmental impact assessments in the RDEIR rely on full buildout of the entire

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HST Project. For example, the conclusions regarding the significance of impacts to air quality and greenhouse gas emissions, water quality, and transportation depend on projected benefits generated by ridership projections for the entire HST system at full buildout. However, in light of the uncertainty and controversy over the future of federal and state funding sources for high-speed rail in California, there are no assurances that the entire HST Project will ever be built, and there is certainly no guarantee that it will occur within the next decade.

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Courts have frowned on this approach. Recent case law has made it clear that an EIR may not use hypothetical future conditions as the baseline against which to compare impacts of a proposed project. "'An approach using hypothetical allowable conditions as the baseline results in "illusory" comparisons that "can only mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts," a result at direct odds with CEQA's intent.'" (*Sunnyvale West Neighborhood Ass'n v. City of Sunnyvale* (2011) 190 Cal.App.4th 1351, 1374 [*citing Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 322 (*citing Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 358)].) Similarly, assuming that hypothetical future development will occur for purposes of claiming benefits from that hypothetical development in the analysis of a project is also prohibited by *Sunnyvale*. Given the high degree of uncertainty as to whether the entire HST Project will ever be built, the RDEIR's reliance on assumed benefits from the statewide project in its impact analysis of the Fresno to Bakersfield segment contravenes CEQA.

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It is entirely possible, and may indeed be probable, that only the HST segments currently in the planning stages (the Merced-Fresno and Fresno-Bakersfield segments) will be constructed. Given the urgency expressed by the Authority and the FRA to get "shovels into the ground" to preserve existing federal funding commitments, it is entirely likely that Californians' worst fears will be realized: a "train to nowhere" that travels only from Merced to Bakersfield, carrying with it myriad permanent impacts to communities along the train's route but none of the benefits promised by a statewide inter-city high-speed rail system. The Fresno to Bakersfield Segment has no "independent utility" outside of the statewide HST Project as a whole, and therefore the impacts of the segment may not be evaluated without concurrent evaluation of the HST Project's impacts as a whole, as well as further assurances that the entire HST Project will, indeed, be built.

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C. The Project Description Violates CEQA And NEPA

CEQA mandates that an EIR provide a "stable, accurate, and finite project description." (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.) The description of a project in an EIR must provide sufficient detail and accurate information to permit informed decisionmaking by the public and their representatives. (CEQA Guidelines, § 15124.) Further, "[a]n accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity." (*Silveira v. Las Gallinas Valley Sanitary District* (1997) 54 Cal.App.4th 980, 990.)

Pursuant to NEPA, an EIS must provide a complete and consistent description of a proposed action and the affected environment. The EIS "should serve both to alert the public of

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what the agency proposes to do and give the public enough information to be able to participate intelligently in the EIS process." (*California v. Block* (9th Cir. 1982) 690 F.2d 753, 772.)

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The description of the Project in the RDEIR violates both CEQA and NEPA. Rather than provide a clear, consistent proposed project that can be meaningfully analyzed by the public, the RDEIR presents nine different alignment alternatives for the proposed rail line, as well as two different Fresno station location alternatives, two different Kings/Tulare Regional Station location alternatives, three different Bakersfield station location alternatives, and five different Heavy Maintenance Facility location alternatives, without identifying one set of alternatives as the preferred alternative. This series of different alternatives represents hundreds of different "projects." This approach hinders evaluation of the Project, because the public is not presented with a clear "proposed project" to which it should devote substantial attention. By deferring selection of a preferred alternative to the Final EIR/EIS, the Authority and the FRA have frustrated meaningful public review.

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This approach also violates the fundamental purpose of alternatives, which is to analyze alternatives to a proposed project that "would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project." (CEQA Guidelines, § 15126.6) (see Section I.E below.) The "alternatives" in the RDEIR are not alternatives in the sense that the word is used for CEQA and NEPA purposes, but rather variations on an uncertain and unclear proposed project.

By only providing a range of alternatives in the RDEIR and not a single project description, the Authority and the FRA have failed to achieve CEQA's goal of informing the public about the Project and have precluded "informed decision making and informed public participation." (*Berkeley Keep Jets Over the Bay Committee v. Bd. of Port Commissioners* (2001) 91 Cal.App.4th 1344, 1345; 40 C.F.R. § 1502.8 [an environmental document must "be written […] so that decisionmakers and the public can readily understand" the document and the project.].) The RDEIR fails to meet these basic standards.

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D. The Purpose And Need Statement Requires Analysis Of A Non-Urban Alignment And Station

Under NEPA, similar to the requirements under CEQA, an EIS must contain a discussion specifying the underlying purpose and need of the project. (40 C.F.R. § 1502.13.) The purpose and need define the goals of the project in order to allow for the proper review of an appropriate range of alternatives. (*Stop the Pipeline v. White* (2002) 233 F. Supp. 2d 957, 971.) The purpose and need must be properly defined, because "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." (*Simmons v. U.S. Army Corps of Engineers* (7th Cir. 1997) 120 F.3d 664, 666.)

Here there is a fundamental disconnect between the RDEIR's declared Purpose and Need and the universe of "alternatives" studied in the document. The declared Purpose of the Statewide HST Project is as follows:

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> The purpose of the statewide HST System is to provide a reliable high-speed electrified train system that links the major metropolitan areas of the state, and that delivers predictable and consistent travel times. A further objective is to provide an interface with commercial airports, mass transit and the highway network and 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.

(RDEIR, p. 1-4.) The document also sets forth a more specific Purpose for the Fresno to Bakersfield portion of the Statewide HST Project:

> The purpose of this project is to implement the Fresno to Bakersfield Section of the California HST System to provide the public with electric-powered high-speed rail service that provides predictable and consistent travel times between major urban centers and connectivity to airports, mass transit, and the highway network in the south San Joaquin Valley, and connect the northern and southern portions of the system.

(*Ibid.*)

Nothing in the declared Purpose of the Statewide HST Project or the Fresno to Bakersfield portion of the HST Project refers to a Downtown Bakersfield station or a rail alignment that traverses large sections of urban Bakersfield, functionally dividing the City of Bakersfield in half. Given the significant impacts created by running the Project through an urbanized area, it would be logical to expect that the universe of alternatives studied in the RDEIR must include alignment and station alternatives that avoid Bakersfield's urban areas, including Downtown. For example, there was no basis to eliminate the alignment along SR 99 that placed a station located near Bakersfield Meadows Field Airport when such a station location alternative would closely serve the professed Purpose of the Project, to provide "connectivity to airports [and] mass transit."

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Instead, the RDEIR ignores the role of alternatives under NEPA and predetermines that the train alignment will travel through urban Bakersfield, with a station location in Downtown Bakersfield. The "alternatives" presented for the Bakersfield Subsection are not true alternatives as that term is used under NEPA. The BNSF, Bakersfield South, and Bakersfield Hybrid alignment alternatives travel essentially the same route through the City of Bakersfield. The Bakersfield station location alternatives all would locate the Bakersfield station at sites within a few hundred feet of each other in Downtown Bakersfield. No true alternative, including at least one that would align the train route so that it does not bisect urban Bakersfield and would locate the Bakersfield station outside of Downtown Bakersfield, is proposed. This violates both CEQA and NEPA.

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"NEPA regulations place agency decisionmakers under an affirmative duty to 'rigorously explore and objective evaluate all reasonable alternatives,'" including "all plausible alternatives prominently presented in a timely manner during the EIS process." (*Sierra Club v. Marsh* (1989) 744 F. Supp. 2d 352, 362) (citing 40 C.F.R. § 1502.14(a).) The Authority and the FRA have abdicated that responsibility here, by failing to consider a reasonable range of alternatives that fit the Project's Purpose and Need.

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E. The Analysis Of Alternatives Does Not Comply With CEQA Or NEPA

CEQA requires that a Draft EIR include a discussion and evaluation of "a reasonable range of alternatives to the project, or to the location of the project, which would feasibly obtain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (CEQA Guidelines, § 15126.6(a).) CEQA requires the lead agency to identify a range of feasible alternatives, including alternative sites, that could "substantially lessen any significant effects that the project would have on the environment," and to discuss the comparative environmental effects of the project and the alternatives. (CEQA Guidelines, § 10521(a)(2); *see Mountain Lion Foundation v. Fish and Game Comm'n* (1997) 16 Cal.4th 105.) Alternatives that may avoid or lessen the impacts of a project must be thoroughly analyzed, "even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly." (CEQA Guidelines, § 15126.6(b).)

NEPA similarly requires that a range of alternatives be analyzed to avoid or minimize environmental impacts. An Environmental Impact Statement "shall provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment." (40 C.F.R. Parts 1500-1508, Section 1502.1.)

These alternatives should not merely be variations on the design that the project proponent ultimately hopes to implement, but should be designed with the goal of avoiding or lessening the impacts of a project. The analysis of alternatives in the RDEIR fails to comply with these basic CEQA and NEPA requirements.

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As an initial matter, as discussed above, the RDEIR fails to identify a proposed project among the nine different alignment alternatives, seven different station location alternatives, and five different Heavy Maintenance Facility location alternatives. Rather, all of the alternatives are presented as equally weighted options that may be carried forward for further study and eventual selection, and any one of hundreds of different alternatives combinations may be selected as the final proposed project. The public is therefore unable to compare the proposed project against alternatives that may lessen or avoid significant environmental impacts of the project, because there is no project against which to compare alternatives. This approach fundamentally violates the mandates of CEQA and NEPA.

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Furthermore, in the Bakersfield Subsection, three different alignment alternatives are presented for consideration in the RDEIR: the BNSF Alternative, the Bakersfield South Alternative, and the Bakersfield Hybrid Alternative. Each alternative alignment is accompanied

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by its own Downtown Bakersfield station location. These alternatives fail in their basic purpose under CEQA and NEPA to provide a range of feasible alternatives, including alternative sites, that could "substantially lessen any significant effects that the project could have on the environment." (CEQA Guidelines, § 15126.6.) The BNSF Alternative, Bakersfield South Alternative, and Bakersfield Hybrid Alternative all traverse roughly the same path through metropolitan Bakersfield, and each will cause significant impacts in areas including: air quality; noise; socioeconomics, communities, and environmental justice; land use; parks, recreation, and open space; aesthetics and visual quality; and cultural resources. These impacts are all caused in whole or in part by the design and location of the project, and all could be lessened or avoided by an alternative that bypasses Downtown Bakersfield altogether.

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The alternatives screening process for the Project did consider such an alternative, known as Alternative 4 or the W99 Alternative, which would have traveled a path parallel to State Route 99 ("SR 99") and would have avoided many of the impacts to Downtown Bakersfield posed by the three alignment alternatives carried forward to the RDEIR. However, this alternative was eliminated during the screening process for a number of reasons, including its distance from urban centers and its perceived increased environmental impacts.

> "[The SR-99 Alternatives considered] would not serve existing downtown areas and existing population centers, and would therefore result in the placement of stations in outlying suburban locations at a distance from population centers. Such stations would provide lower ridership and revenue potential and poorer connectivity and accessibility than potential stations in cities and on existing rail alignments. These alignments would result in increased potential for impacts on agricultural lands and natural resources and would have high severance impacts throughout the Central Valley. In addition, the proposed W99 and E99 alignments would have the potential to contribute to development sprawl and to increase development pressure on agricultural lands."

(Statewide California High Speed Train Final Program EIR/EIS, p. 2-53 – 2-54.) There is little or no evidence in the record to support these conclusions. In particular, the RDEIR presents no evidence that population density patterns dictate that a Downtown Bakersfield station is needed to serve "population centers." Given the sprawling, decentralized nature of Bakersfield's residents and businesses, it is entirely possible that a station located elsewhere would better serve the Project's purpose and need. However, the RDEIR never examines this possibility.

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Stations located on the outskirts of population centers in Fresno and Bakersfield, if properly designed and linked to existing and/or proposed transit service, could still serve population centers throughout the Central Valley. Such an alternative would provide similar benefits of the alignment alternatives carried forward, including reduced vehicle miles traveled and reduced air emissions. An alignment along SR 99 would follow an existing transportation corridor and would avoid the myriad impacts associated with building a heavy rail line through the center of Bakersfield, by forcing the Bakersfield station to be located at one of the station

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location alternatives rejected in the screening process, such as Bakersfield Meadows Field Airport.

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The RDEIR states that the alignment along SR 99 was rejected because it could not meet the purpose and need of providing a downtown station in Bakersfield. (RDEIR, p. 2-29.) However, Section 1.0 of the RDEIR, Project Purpose, Need, and Objectives, does not identify a Downtown Bakersfield station as a purpose or need of the Project. Nowhere in Section 1.0 is a Downtown Bakersfield station, or for that matter a Downtown Fresno station, discussed. To the contrary, a number of the Project objectives listed in the RDEIR weigh in favor of selecting an alignment that parallels SR 99 and includes a station location near Bakersfield Meadows Field Airport. These include:

- Maximize intermodal transportation opportunities by locating stations to connect with local transit, ***airports***, and highways.
- Maximize the use of ***existing transportation corridors and rights-of-way***, to the extent feasible.

(RDEIR, p. 1-4) (emphasis added.) An alignment running along SR 99 through the Central Valley with a station located adjacent to Bakersfield Meadows Field Airport would accomplish both of these objectives, by locating a station with easy connectivity to a local airport and utilizing an existing transportation corridor. Such an alignment and station location would also achieve most of the other Project objectives identified by the Authority and the FRA, including providing efficient, high-speed intercity transportation capacity, reducing strains on existing transportation infrastructure, reducing travel times between cities, and minimizing impacts to agricultural lands. The Authority and the FRA unreasonably eliminated the SR 99 alignments from consideration too early in the process, before the public had an opportunity to evaluate impacts resulting from the alignments that were carried forward for further study. The Authority and the FRA should reconsider the elimination of this alignment and should re-circulate the RDEIR with a SR 99 alignment included among the alignment options.

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The analysis of alternatives in the RDEIR also deprives the public of the ability to perform meaningful evaluation of those alternatives by failing to clearly set out a comparison of the varying significant impacts of the alternatives. Under CEQA, an EIR "shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. A matrix displaying the major characteristics and significant environmental effects of each alternative may be used to summarize the comparison." (CEQA Guidelines, § 15126.6(d).) Unfortunately, the RDEIR contains no such matrix, and the public is forced to sift through hundreds of pages of discussion of alternatives in each individual impact area, not to mention the supporting appendices and reports, to see the differences between the alternatives. This unwieldy and confusing organization is an impediment to informed public participation, which is vital to the CEQA and NEPA process.

BO032-26

F. The Description Of The Existing Environmental Setting Is Flawed

The RDEIR is flawed because it provides insufficient information for the reader to measure impacts of the Project against the existing environmental setting. An EIR's description of a project's environmental setting plays a crucial part in all impact analyses because the environmental setting provides "the baseline physical conditions by which a lead agency determines whether an impact is significant." (CEQA Guidelines, § 15125(a).) "Without a determination and description of the existing physical conditions on the property at the start of the environmental review process, the EIR cannot provide a meaningful assessment of the environmental impacts of the proposed project." (*Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 119.) The RDEIR fails to accurately investigate and portray existing environmental conditions at the Project site and in the surrounding areas, which contravenes CEQA and undercuts the legitimacy of the impact analyses contained in the RDEIR.

BO032-27

As an example, the analysis of impacts related to Station Planning, Land Use, and Development (Section 3.13 of the RDEIR) contains only a cursory description of the land through which the proposed HST alignment alternatives would pass. The description of the Bakersfield Subsection through which the BNSF Alternative would travel is particularly lacking:

> "The pattern of existing uses along the study area in the Bakersfield city limits is very diverse. Much of the corridor is characterized by industrial uses associated with oil-related businesses and rail yards. The downtown portion of the alignment, however, is predominantly commercial and community facility with considerable areas of vacant and underused land. East of the Downtown Bakersfield station area, existing land uses are generally residential and service commercial."

(RDEIR, p. 3.13-19.) Description of existing land uses for other alignment alternatives is even more sparse. We appreciate that the RDEIR analyzes impacts to properties along a huge swath of the Central Valley, but the description given in the RDEIR is insufficient to adequately describe the existing environmental setting and to permit the public to measure impacts of the Project against that setting. Missing is specific information on the type and density of residential areas in northwest Bakersfield, as well as descriptions of existing public facilities and parking in Downtown Bakersfield that would be traversed by the proposed alignment alternatives.

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Similarly, the Aesthetics and Visual Resources Section of the RDEIR offers an insufficient visual representation of the existing physical environment that would be affected by the Project. In the Bakersfield Subsection, the document includes a paltry 21 photographs of the existing setting in an area of track alignment more than 15 miles in length. Many EIRs for much smaller projects include dozens of photographs to show existing conditions at single parcels of land. It is infeasible for the public to meaningfully evaluate aesthetics impacts to Bakersfield communities affected by the Project when photographs depicting the existing setting do not provide the full context of the impacts. This omission violates CEQA, which "requires an EIR to describe the environmental setting of the project so that the changes can be seen in context."

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(*San Joaquin/Raptor Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 723.)

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G. The RDEIR Fails To Analyze The Environmental Impacts Of Mitigation Measures

Under CEQA, "[a]n EIR is required to discuss the impacts of mitigation measures." (*Save Our Peninsula Com. v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 130; CEQA Guidelines, § 15126.4(a)(1)(D).) The RDEIR fails to satisfy this CEQA requirement in numerous respects. For example:

1. The RDEIR proposes many traffic mitigation measures that would themselves cause impacts. These include widening, restriping, and/or modifying lanes of traffic in roadways located in the vicinity of the proposed Fresno, Kings/Tulare, and Bakersfield station locations. (RDEIR, pp. 3.2-129 – 3.2-143.) These traffic improvements would certainly cause traffic, air quality, noise, and other impacts that must be analyzed in the RDEIR. However, the document provides no analysis of the potential impacts of these proposed mitigation measures.

BO032-30

2. Mitigation Measure PU&E-MM #1 proposes to reconfigure or relocate existing electrical substations to avoid impacts from the HST Project footprint. If the substations cannot be reconfigured in their existing locations, they would be relocated to adjacent properties. The Revised Draft EIS/Supplemental Draft EIR does describe the effects of such relocations to farmland under Williamson Act contracts, but fails to describe the effects of such relocations to other properties. The potential environmental impacts of relocated electrical substations could include noise, land use, air quality, safety, and other impact categories, and these impacts proposed as a result of this mitigation measure are not analyzed.

BO032-31

3. Mitigation Measure N&V-MM#1 and Mitigation Measure AVR-MM #2g propose to construct sound barriers in sensitive areas. The RDEIR includes maps that identify potential noise mitigation locations but does not specify where sound walls would be located, nor does it identify criteria to determine the locations and characteristics of such sound walls. The document likewise fails to discuss potential visual impacts resulting from the installation of sound walls, and it does not discuss construction-related impacts (noise, air quality, etc.) that could occur as a result of the construction of sound barriers.

BO032-32

4. Mitigation Measure Bio-MM #4 proposes the use of herbicides as a means of weed abatement during construction. The RDEIR lacks any analysis of the impacts to sensitive species that may occur due to the use of herbicides for weed abatement.

BO032-33

5. In numerous places in the RDEIR, relocation of structures is proposed as a means of mitigating impacts. This mitigation measure is discussed in the Socioeconomics, Communities and Environmental Justice section of the document, as well as the Cultural and Paleontological Resources section of the document. Nowhere, however, does the RDEIR discuss the potential sites of such relocations or the potential environmental impacts that may result from relocation of structures. These impacts could include land use, construction impacts including air quality and noise, and potential impacts to communities and biological resources.

Failure to analyze the potential environmental impacts of mitigation measures proposed as part of the Project is a patent violation of CEQA and NEPA.

BO032-34

H. The Revised Draft EIS/EIS Impermissibly Defers Mitigation

CEQA mandates that the "[f]ormulation of mitigation measures should not be deferred until some future time." (CEQA Guidelines, § 15126.4(a)(1)(B).) Under CEQA, "it is improper to defer the formulation of mitigation measures until after project approval; instead, the determination of whether a project will have significant environmental impacts, and the formulation of measures to mitigate those impacts, must occur before the project is approved." (*City of Long Beach v. Los Angeles Unified Sch. Dist.* (2009) 176 Cal.App.4th 889, 915-16.) "Impermissible deferral of mitigation measures occurs when an EIR puts off analysis or orders a report without either setting standards or demonstrating how the impact can be mitigated in the manner described in the EIR." (*Ibid.*) Although an agency may commit to eventually devising mitigation measures where practical considerations prohibit setting forth specific measures in an EIR, the agency must adopt "specific performance criteria articulated at the time of project approval" for those measures to be developed. (*Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906.) Where "precise means of mitigating impacts is truly infeasible or impractical at the time of project approval…the approving agency should commit itself to eventually working out such measures as can be devised, but should treat the impacts in question as being significant at the time of project approval." (*Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1028 [quoting Remy et al., *Guide to the Cal. Environmental Quality Act* (1991 ed.) pp. 200-201, fn. omitted].)

Several proposed mitigation measures in the Revised Draft EIS/EIR fail this test, impermissibly deferring mitigation and analysis to some future time without providing specific performance criteria that must be satisfied. These mitigation measures are also vague and uncertain, and fail to demonstrate that the measures will reduce the Project's significant impacts. Furthermore, the RDEIR fails to treat some impacts to be addressed with deferred mitigation as being significant until mitigation can be devised. These deficiencies constitute impermissible deferral of mitigation, contravening CEQA and withholding enforceable commitments to implement feasible measures that would mitigate the Project's significant environmental impacts.

- *Socioeconomics, Communities, and Environmental Justice*. The RDEIR identifies two mitigation measures that will be utilized to mitigate impacts related to

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socioeconomics, communities, and environmental justice in Bakersfield, though not to below a level of significance: Mitigation Measures SO-2 and SO-3. These mitigation measures promise "outreach," "consultations," "meetings," and "community workshops" with homeowners, businesses, organizations, and stakeholders to design and manage the area beneath the elevated tracks and to locate replacement housing for residents displaced by the Project. As the RDEIR acknowledges, safety considerations may preclude use of the space beneath the tracks for pedestrian paths, bicycle paths, gardens, or other community uses. In addition, the mitigation measures state that "how costs will be paid will be determined during consultations with the affected city, county, or parks district," and "the parties or entities…responsible for some ongoing maintenance of these community areas will be determined." These mitigation measures are vague, uncertain, and entirely lacking in performance standards by which the public will be able to monitor compliance. The measures also do not provide assurances that the mitigation will be enforced.

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- *Station Planning, Land Use, and Development*. The RDEIR identifies no unique mitigation measures for impacts related to station planning, land use, and development. However, the document states that "[t]he Authority would work with local governments to amend their plans to reduce the land use conflicts where appropriate." (RDEIR, p. 3.13-58.) This proposal is in lieu of identifying specific measures to mitigate impacts related to land use conflicts in the document itself. This mitigation measure is vague, uncertain, and it lacks performance standards by which the public can judge compliance. The RDEIR also fails to label these impacts as significant until specific mitigation measures are devised.

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- *Aesthetics and Visual Resources*. The RDEIR discusses several mitigation measures for operational impacts of the Project related to Aesthetics and Visual Resources. These include Mitigation Measure AVR-MM #2a, which discusses coordination with local jurisdictions on the design of stations and elevated guideways in urban areas. The mitigation measure promises a "local consultation process," meetings, and the solicitation of "community input." In addition, AVR-MM #2g indicates that the design and placement of sound barriers in visually sensitive areas would incorporate "transparent materials," "non-reflective materials," and "surface design enhancements and vegetation appropriate to the visual context of the area." These mitigation measures are vague, uncertain, and entirely lacking in performance standards by which the public will be able to monitor compliance. The measures also do not provide assurances that the mitigation will be enforced, and they defer design of specific project components promised to mitigate aesthetic impacts until after the Project is approved.

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- *Noise and Vibration*. Mitigation Measure N&V-MM #2 proposes only to repair buildings damaged by construction vibration or to pay compensation for such damage, following some general statements that construction vibration impacts due to pile driving will only be experienced where buildings are within 25-50 feet of construction activities, or where alternative methods such as push piling or

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auger piling cannot be used. The mitigation measure does not identify specific areas where buildings will be located within 25-50 feet of pile driving activities or specific areas where such alternative measures would be unavailable. It does not set out specific mitigation measures to avoid or reduce such impacts. As written, this mitigation measure is vague, uncertain, and it does not include performance standards by which the public can judge compliance.

BO032-38

I. The Analysis Of The No Project Alternative Is Inadequate And Improperly Assumes That The No Project Alternative Is The Environmentally Superior Alternative

CEQA requires a lead agency to "analyze the impacts of the no project alternative by projecting what would reasonably be expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services." (CEQA Guidelines, § 15126.6(e)(3)(C).) In analyzing the no project alternative in a draft EIR, the lead agency "should identify the practical result of the project's non-approval and not create and analyze a set of artificial assumptions that would be required to preserve the existing physical environment." (CEQA Guidelines, § 15126.6(e)(3)(B).) The no project alternative should be considered along with other project alternatives, and the EIR "shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. A matrix displaying the major characteristics and significant environmental effects of each alternative may be used to summarize the comparison." (CEQA Guidelines, § 15126.6(d).)

As discussed above, the comparison of project alternatives in the RDEIR is confusing and difficult to follow. No comparison table of relative impacts of each alternative is presented. Similarly, the comparison between the No Project Alternative and the Project itself, which consists of a medley of alignment, station location, and HMF location options, is at best difficult to follow. Summaries of No Project Alternative assumptions and impacts are provided within the discussion of each environmental impact area, and then summarized in the Summary section of the RDEIR. However, nowhere is a comparison provided showing the aggregate impacts of the No Project Alternative in comparison with the Project. Nor are any conclusions drawn regarding the scale and relative intensity of those impacts.

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CEQA also requires a lead agency to identify an "environmentally superior alternative" among the other alternatives if the no project alternative is the environmentally superior alternative. (CEQA Guidelines, § 15126.6(e)(2).) Here, the RDEIR concludes without sufficient evidence that the no project alternative is not the environmentally superior alternative. This conclusion is based purely on a few assumed benefits of the statewide HST Project, such as "reducing vehicle trips on freeways and reducing regional air pollutants that would not be realized under the No Project Alternative." (*Ibid.*) However, this bare conclusion ignores many of the significant, irreversible, and devastating impacts resulting from implementation of the HST Project. These impacts include construction air quality, noise, biological resources, division of communities, land use incompatibility, conversion of agricultural lands, aesthetics and visual quality, cultural resources impacts, and impacts to Section 4(f) properties. The reader searches in vain for a clear comparative analysis showing that benefits of the HST Project

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outweigh this laundry list of significant impacts, and therefore that a Statement of Overriding Considerations will be justified at the Final EIR/EIS stage.

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In addition, the RDEIR assumes that the entire statewide system will eventually be built. Given the uncertainty and controversy over the future of federal and state funding sources for high-speed rail in California, there are no assurances that the entire system will ever be built. The RDEIR leaps to the conclusion that the No Project Alternative is not the environmentally superior alternative and, therefore that no additional environmentally superior alternative must be identified. (RDEIR, p. 6-2.) This conclusion contravenes CEQA; the RDEIR must clearly explain why the no project alternative is not the environmentally superior alternative using impacts conclusions for the Fresno to Bakersfield segment only.

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J. The Analysis Of The Project's Greenhouse Gas Emissions Does Not Comply With CEQA

CEQA compels a lead agency "first to identify the environmental effects of projects, and then to mitigate those adverse effects through the imposition of feasible mitigation measures or through the selection of feasible alternatives." (*Sierra Club v. State Board of Forestry* (1994) 7 Cal.4th 1214, 1233.) The CEQA Guidelines define the effects to be analyzed in an EIR to include "[d]irect or primary effects which are caused by the project and occur at the same time and place." (CEQA Guidelines, § 15358(a).) Clear and straightforward identification and discussion of a project's effects is crucial, because "a paramount consideration is the right of the public to be informed in such a way that it can intelligently weigh the environmental consequences of any contemplated action and have an appropriate voice in the formulation of any decision." (*Environmental Planning and Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 354.)

The analysis of greenhouse gas emissions during Project construction in Section 3.3, Air Quality and Global Climate Change, of the RDEIR fails these requirements of CEQA. This section attempts what appears to be a novel approach to hiding significant environmental impacts. During the construction period, emissions of carbon dioxide equivalent (CO_2e) would be greater than 25,000 metric tons, which is, according to the RDEIR, the level of annual emissions that would trigger an quantitative analysis according to draft guidance from the Council on Environmental Quality. (RDEIR, pp. 3.3-6; 3.3-47.) The document then claims that "the increase in GHG emissions generated during construction would be offset by the net GHG reductions in operation…in less than 6 months" because "[t]he time that CO_2 remains in the atmosphere cannot be definitively quantified because of the wide range of time scales in which carbon reservoirs exchange CO_2 with the atmosphere…therefore, the duration that CO_2 emissions from a short-term project (i.e., construction emissions) would remain in the atmosphere is unknown." (*Ibid.*) The conclusion, under both NEPA and CEQA, is that the impacts would therefore be less than significant. (*Ibid.*)

This approach does not comply with a lead agency's obligation under CEQA to inform the public of all potentially significant impacts of a project. Here, the construction phase of the HST Project may have significant impacts related to greenhouse gas emissions. This is logical, given the scale and intensity of construction work that will be required for the Project throughout

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the Central Valley. But the RDEIR concludes that Impact AQ #4 (Greenhouse Gas Emissions During Construction) will not reach a level of significance, only because construction-period GHG emissions are conflated with projected reduction in GHG emissions due to operation of the project. In no other impact area discussed in the RDEIR are construction and operational impacts conflated in this way. The RDEIR should be re-circulated with the potentially significant impacts of greenhouse gas emissions during construction quantified and analyzed fully, and all feasible mitigation measures adopted.

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The RDEIR also does not utilize the most widely accepted model for calculating GHG emissions, the California Emissions Estimator Model, known as "CalEEMod." (*See* http://www.caleemod.com/.) CalEEMod was developed in collaboration with the air districts in California and is a statewide land use emissions computer model designed to provide a uniform platform for government agencies, land use planners, and environmental professionals for use in CEQA documents. The RDEIR states that it uses an "alternative approach" to GHG emissions modeling, developed in consultation with the San Joaquin Valley Air Pollution Control District (SJVAPCD). This "alternative approach" is not explained in the body of the RDEIR, nor is it easily located in any of the technical appendices to the document. Making matters worse, the 2005 Statewide Program EIR/EIS used a different GHG model, known as URBEMIS. This use of shifting, poorly explained, and inconsistent GHG emissions models violates CEQA. "The decision makers and general public should not be forced to sift through obscure minutiae or appendices in order to ferret out the fundamental baseline assumptions that are being used for purposes of the environmental analysis." (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 659.)

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K. The Analysis Of Cumulative Impacts In The RDEIR Violates CEQA

It is axiomatic that an EIR must discuss cumulative impacts. (CEQA Guidelines, § 15130.) That is, an EIR must discuss a project's impacts over time in conjunction with past, present and reasonably foreseeable future projects. (Pub. Res. Code § 21083; CEQA Guidelines, § 15130; see also *id.*, § 15355(b) (defining cumulative impacts as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts").) One acceptable measure of identifying the universe of past, present, and probable future projects for purposes of a cumulative impacts analysis is to consider "[a] list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency." (CEQA Guidelines, § 15130(b)(1)(A).) Another measure of identifying related projects is to consider "[a] summary of projections contained in an adopted general plan or related planning document…Any such planning document shall be referenced and made available to the public at a location specified by the lead agency." (CEQA Guidelines, § 15130(b)(1)(B).)

Here, the RDEIR uses both the "list" and the "summary of projections" methods, as the two methods are known. Appendices 3.19-A and 3.19-B provide lists of related projects, including a list of related projects within the City of Bakersfield, which includes the Bakersfield Commons project. Indeed, it appears from Section 3.19 of the RDEIR that these lists of projects and plans form the basis of the assumed future conditions against which the incremental impact contributions of the Project are measured. The Revised Draft EIR/Supplemental also explicitly

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assumes that "the cumulative condition includes build-out of the general plans in the four county region." (RDEIR, p. 3.19-5.) This is an unreasonable assumption, and one that renders the entire cumulative impacts analysis inadequate under CEQA. The RDEIR does not provide further information on its assumption that the general plans in the four-county region will achieve "build-out" by the year that cumulative impacts are measured, which is assumed to be 2035. (RDEIR, p. 3.19-2.) Given current economic trends, including the downturn in real estate development, it is unlikely that the general plans in the four-county region will achieve "build-out" by 2035. Therefore, the RDEIR is likely inflating the number of future projects that will be developed in the related projects area, and thereby artificially inflating the cumulative impacts base against which the Project's incremental contributions are measured. This unreasonable assumption is a fatal flaw in the Project's cumulative impacts analysis.

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The discussion of cumulative impacts in the RDEIR is plainly inadequate. Under CEQA, "the courts have favored specificity and use of detail in EIRs since '[a] conclusory statement 'unsupported by empirical or experimental data, scientific authorities, or explanatory information of any kind' not only fails to crystallize issues but 'affords no basis for a comparison of the problems involved with the proposed project and the difficulties involved in the alternatives.'" (*Whitman v. Board of Supervisors* (1979) 88 Cal.App.3d 397, 411 [quoting *People v. County of Kern*, Cal.App.3d 830, 841-842 (quoting *Silva v. Lynn* (1st Cir. 1973) 482 F.2d 1282, 1285)].) Here, the RDEIR states that "[i]n many cases, the HST alternatives make a small incremental contribution to cumulative impacts…these incremental population increases and associated development would have environmental impacts that are cumulatively considerable in some areas and provide beneficial effects in others." (RDEIR, p. 3.19-5 – 3.19-6.) This is plainly inadequate. As the RDEIR itself notes in many places, significant differences in intensity of impacts would occur at different points along the proposed train alignment, with the differences particularly evident between rural and urban locales. The cumulative impacts section does not analyze the Project's incremental contributions to cumulative impacts by Project subsection, or even between rural and urban locations. Without such basic analysis, the statement that the Project would make a "small incremental contribution to cumulative impacts" is entirely lacking in evidentiary support.

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Finally, the RDEIR violates CEQA's mandate that in any EIR utilizing the "summary of projections" method of identifying related projects for a cumulative impacts analysis, "[a]ny such document shall be referenced and shall be made available to the public at a location specified by the lead agency." (CEQA Guidelines, § 15030(b)(1)(B).) The RDEIR makes reference to the general plans in the four-county region, but does not make those documents available for public review. The documents are not linked on the Project's web page, and they are not provided to members of the public requesting copies of the RDEIR for review.

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III. DIRECT IMPACTS TO BAKERSFIELD COMMONS PROPERTY

The Project will have a material impact on Coffee-Brimhall's approved 255-acre mixed-use development, Bakersfield Commons. However, the RDEIR spends a mere two paragraphs discussing impacts to this approved project. As discussed below, the RDEIR fails to explain the nature and extent of temporary and permanent impacts to the Bakersfield Commons property,

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and it neglects to analyze numerous potentially significant impacts to the Bakersfield Commons property.

A. The RDEIR Fails To Explain The Nature And Extent Of Temporary And Permanent Impacts To The Bakersfield Commons Property

The RDEIR appears to propose both temporary and permanent impacts to the Bakersfield Commons property, though the nature and extent of these impacts is entirely unclear. The RDEIR indicates that the Bakersfield Commons property lies within the footprint of both the proposed BNSF Alternative alignment and the proposed Bakersfield Hybrid/Bakersfield South alignments. (See RDEIR, Appendix 3.1-A, Sheets 269-272.) The Bakersfield Hybrid and Bakersfield South alignments travel the same path across the Bakersfield Commons property, according to Project plans. Appendix 3.1-A depicts an area of "permanent impact" to the area of the Bakersfield Commons property that would be traversed by the rail line, but additional oddly shaped portions of the property also appear to be slated for a "permanent impact." No explanation is provided in the RDEIR as to the nature or extent of this permanent impact to the Bakersfield Commons property, particularly with regard to the areas of permanent impact that are not within in the proposed right-of-way of the rail line.

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The proposed rail alignments would completely preclude development of the Phase II residential and retail components of the Bakersfield Commons project and would affect the future development of the entire Bakersfield Commons project. Bakersfield Commons will include a large residential and retail component comprising approximately 50 acres with frontage on Brimhall Road west of Coffee Road. The residential component will contain approximately 425 dwelling units. The installation of an elevated rail line, at heights ranging from between 60 and 82 feet above the southern portion of the Bakersfield Commons site, would render the residential units in the Bakersfield Commons development unsalable. The elevated train would

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also have significant visual resources and aesthetics impacts on the development. The train line

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would permanently take at least seven acres of the Bakersfield Commons site under the Bakersfield Hybrid or Bakersfield South Alternative alignments, and at least four acres of the Bakersfield Commons site under the BNSF Alternative alignment. However, these areas of permanent takings understate the true level of impact because of reduced potential of productive use of the property within a 250 foot radius of the train alignment. When land within 250 feet on either side of the train line is considered, the Bakersfield South or Bakersfield Hybrid Alternative alignments would permanently impact at least 54 acres of the Bakersfield Commons property, and the BNSF Alternative alignment would permanently impact at least 37 acres of the Bakersfield Commons property.

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In addition, the RDEIR indicates that the entirety of the Bakersfield Commons property will be subject to a "temporary impact." (See RDEIR, Appendix 3.1-A, Sheets 269-272.) However, no further information is given as to the nature or extent of this impact, including such vital information as the reason for the temporary impact, the proposed use of the property, or when it may occur. An attempt to piece together the potential impacts to the property leads the reader to the Station Planning, Land Use and Development section of the RDEIR, which states the following:

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"Construction of the project on any of the alignment alternatives would temporarily use approximately 2,000 acres of land outside of the permanent footprint of project facilities for construction staging, laydown, and fabrication areas. These lands would be located both in urban and rural areas, and they would be leased from willing landowners…existing commercial and agricultural uses of these temporary construction sites would be suspended during the construction period, which in some cases may be up to 5 years […]. The lands would be restored as close as possible to their preconstruction condition at the end of the construction and returned to the landowner."

(See RDEIR, p. 3.13-35.) The RDEIR does not provide any specific information on the nature and extent of these temporary impacts on the Bakersfield Commons property. Without any information on the proposed uses of the property, the timeline of proposed temporary impacts, and the compensation to be paid for temporary and permanent takings, it is impossible for Coffee-Brimhall to enter a public comment on these impacts into the record. Coffee-Brimhall has received approvals from the City of Bakersfield to construct the Bakersfield Commons mixed use development on the Bakersfield Commons property. Bakersfield Commons would provide myriad benefits to the City of Bakersfield through the provision of 1.4 million square feet of retail and theater space, 600,000 square feet of office space, and 425 residential units. Over its 20-year buildout period, the project would create approximately 4,600 construction jobs and would create approximately 11,600 permanent full-time jobs. However, the permanent taking of a portion of the Bakersfield Commons property for a rail right-of-way, along with the temporary taking of the entire property for a potentially lengthy period of time, would have a major impact on the development of this important project. More information and consultation are needed with regard to impacts to the Bakersfield Commons property. The RDEIR currently fails to inform the public as to the significant impacts to this property.

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B. The RDEIR Fails To Discuss Other Impacts To The Bakersfield Commons Property

Beyond the issue of temporary and permanent takings of the Bakersfield Commons property, the RDEIR fails to clearly disclose the nature and scope of other significant and unavoidable impacts to the Bakersfield Commons property. Though the RDEIR describes numerous environmental impacts of the Project, the 255-acre Bakersfield Commons property gets at most two short paragraphs of discussion in the RDEIR's analysis of significant aesthetic impacts. In full, the RDEIR states:

"In the Bakersfield area, the BNSF, Bakersfield South, and Bakersfield Hybrid alternatives would pass through the proposed Bakersfield Commons project area. The Bakersfield Commons project is proposed in an area of vacant land, adjacent industrial uses, and existing suburban development. Because of the low visual quality of the proposed development site, the cumulative

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effect of the two projects in combination could be beneficial to existing viewers.

Even with implementation of the mitigation measures provided in Section 3.16.6, Aesthetics and Visual Resources, to mitigate visual impacts, cumulative impacts would remain significant in the Orchard Park Specific Plan area, the Rosedale Ranch project area, and the Bakersfield Commons project area until landscape screening matures in 10 years or more."

(RDEIR, p. 3.19-43 – 3.19-44.) This high-level and inexact analysis is entirely insufficient for a project level EIR. Under CEQA, an EIR must be prepared with a sufficient degree of analysis to provide decisionmakers with the information needed to make an intelligent judgment concerning a project's environmental impacts. (CEQA Guidelines, § 15151; *Napa Citizens for Honest Gov't v. Napa County Bd. of Supervisors* (2001) 91 Cal. 4th 342, 356.) Similarly, under NEPA, the Council of Environmental Quality regulations require an EIS to include a discussion of significant effects and mitigation measures. An EIS is legally deficient if it fails to discuss relevant environmental effects in an organized and reasonable manner. (*See Nat'l Parks and Conservation Ass'n v. Bureau of Land Mgmt.* (9th Cir. 2010) 606 F.3d 1058, 1073-74.)

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The RDEIR entirely omits any discussion of other potential environmental impacts to the Bakersfield Commons property, including impacts related to air quality, biological resources, cultural and paleontological resources, electromagnetic fields and electromagnetic interference, geology and soils, hazards and hazardous materials, hydrology and water resources, noise and vibration, public utilities and energy, safety and security, and land use on the Bakersfield Commons property. Given the proximity to this major development, these impacts should have been addressed.

BO032-53

These deficiencies render the RDEIR legally inadequate under CEQA and NEPA. Under CEQA, an EIR must demonstrate to the public that "the agency has, in fact, analyzed and considered the ecological implications of its action." (CEQA Guidelines, § 15003(d).) In evaluating an EIR, "a paramount consideration is the right of the public to be informed in such a way that it can intelligently weigh the environmental consequences of any contemplated action and have an appropriate voice in the formulation of any decision." (*Environmental Planning and Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 354.) If an EIR is "so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded," it must be revised and recirculated or it cannot be approved." (CEQA Guidelines, § 15088.5(a)(4).) Similarly, under NEPA, the discussion of impacts must address both direct and indirect impacts of a proposed project. (40 C.F.R. § 1502.16(b); *see also Sierra Club v. Marsh* (1st Cir. 1992) 976 F.2d 763, 767.) The agency need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable effects of the proposed action. (*Id.* at 767.) In this context, reasonable foreseeability means that "the impact is sufficiently likely to occur that a person of ordinary prudence would take it into account in reaching a decision." (*Ibid.*) The RDEIR fails to meet these standards and is thus legally inadequate.

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BO032-54

IV. DIRECT SIGNIFICANT IMPACTS TO CITY OF BAKERSFIELD

Beyond the potential impacts to the Bakersfield Commons property and the failure of the RDEIR to describe those impacts adequately, the Project will have significant construction and operational impacts on the residents of the City of Bakersfield and surrounding communities. These impacts will permanently and negatively affect the quality of life in the region. Coffee-Brimhall is a committed member of the Bakersfield Community and is deeply concerned about impacts to that community that may affect our neighbors and partners.

A. The RDEIR Does Not Analyze A Reasonable Range Of Downtown Bakersfield Station Location Alternatives

The RDEIR proposes three locations for the HST station in Downtown Bakersfield: (1) the North Alternative, located at the corner of Truxtun Avenue and Union Avenue on the BNSF Alternative alignment; (2) the South Alternative, situated along Union Avenue and California Avenue on the Bakersfield South Alternative alignment; and (3) the Hybrid Alternative, located at the corner of Truxtun Avenue and Union Avenue on the Bakersfield Hybrid Alternative alignment. (RDEIR, pp. 2-77 – 2-78.) The RDEIR does not evaluate alignment and station alternatives that would avoid Downtown Bakersfield; p. 2-29 of the RDEIR states that an initial alternative considered during the alternatives screening process, Alternative 4, would have deviated from the BNSF right-of-way and avoided Downtown Bakersfield but was not carried forward for further study because "it would not meet the project's purpose and need of providing a downtown station." This statement runs contrary to the contents of Section 1.0 of the RDEIR, Project Purpose, Need, and Objectives, which does not establish the purpose or need for a Downtown Bakersfield station, as discussed above.

BO032-55

The RDEIR asserts that the Downtown station location was "endorsed" by the City of Bakersfield. (RDEIR, p. 2-28.) However, the document acknowledges, in a footnote, that the City of Bakersfield offered this endorsement in 2003, long before alignments were screened and impacts to the community were ascertained, and then reversed its endorsement of the downtown station in 2011. The RDEIR makes numerous references to public outreach efforts, working group meetings, and a collaborative and cooperative process of consultation with local communities and government agencies undertaken by the Authority and the FRA as part of the alternatives screening process for the Project. (See RDEIR, Section 7.0, Public and Agency Involvement.) In this case, however, the Authority and FRA have chosen a station location that is opposed by the City Council in the city where the station is to be built.

BO032-56

CEQA does not sanction rejecting an alternative as infeasible simply because it does not meet one of the project objectives. (See *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 487.) CEQA requires that a draft EIR include a discussion and evaluation of "a reasonable range of alternatives to the project, or to the location of the project, which would feasibly obtain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (CEQA Guidelines, § 15126.6(a).) The failure of the Authority and the FRA to analyze an alternative station location that would avoid or lessen impacts to Downtown Bakersfield does not meet this standard.

BO032-57

B. The RDEIR Identifies But Does Not Mitigate Impacts Related To Socioeconomics, Communities, and Environmental Justice

In Section 3.12.9 (Socioeconomics, Communities, and Environmental Justice - CEQA Significance Conclusions), division of existing communities in northeast and northwest Bakersfield is identified as a significant impact of the Project even after mitigation (Impact SO-7.) This is certainly the case. The Project would divide the northwestern and central portions of the City of Bakersfield and would negatively redefine those areas as those that exist south and north of the tracks. The Project would place a barrier up to 80+ feet in height through and adjacent to existing residential and commercial areas, with heights extending in excess of 90+ feet where a proposed sound wall would be implemented. This barrier would destroy existing neighborhood identity and inhibit responsible growth that extends into existing developed areas, particularly in northwest Bakersfield. These impacts would be permanent and irreversible, and would fundamentally change the character of vast swaths of metropolitan Bakersfield.

BO032-58

The RDEIR identifies two mitigation measures that will be utilized to mitigate these impacts, though not to below a level of significance: Mitigation Measures SO-2 and SO-3. These mitigation measures are vague, entirely inadequate, and they constitute deferred mitigation in violation of CEQA. (See CEQA Guidelines, § 15126.4(a)(1)(B).) These mitigation measures promise "outreach," "consultations," "meetings," and "community workshops" with homeowners, businesses, organizations, and stakeholders to design and manage the area beneath the elevated tracks and to locate replacement housing for residents displaced by the Project. As the RDEIR acknowledges, safety considerations may preclude use of the space beneath the tracks for pedestrian paths, bicycle paths, gardens, or other community uses. As discussed above, the RDEIR should analyze an alternative that bypasses existing Bakersfield communities and avoids impacts related to the division of existing neighborhoods, as identified in Impact SO-7.

BO032-59

C. The RDEIR Does Not Analyze Or Mitigate Impacts Related To Land Use Adequately

The alignment alternatives and Downtown Bakersfield station location alternatives proposed in the RDEIR would pose significant construction and operational impacts to the City of Bakersfield, residents of the City, and surrounding communities that would permanently affect the physical environment as well as the character and quality of life in the region. The RDEIR asserts that the Project would be compatible with some elements of the Metropolitan Bakersfield General Plan, including an implementation measure to cooperate in studies to pursue the establishment of high-speed rail service for the plan area. The RDEIR acknowledges, however, that "present city administration is not in favor of the project." This is due to the concern on behalf of the City that the impacts of the Project would greatly outweigh benefits to the Downtown Bakersfield area and consistency with established City plans and policies. In accordance with CEQA, the purpose of an EIR is to disclose to the public and to decisionmakers the potentially significant environmental effects of a project and to identify ways in which such effects can be avoided or reduced. To our knowledge, the Authority and the FRA have never worked with the City to explore alternate routes or alternative station locations to address impacts on city resources or other public facilities. Instead, the Authority and the FRA have pre-

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selected the station location and preferred route alternatives, and have deferred collaboration on mitigation measures until after the preferred alternative package is selected. The RDEIR offers no mitigation measures to lessen or avoid land use impacts to the City of Bakersfield. This omission is a serious deficiency under CEQA.

BO032-60

In addition, the Project would be inconsistent with many provisions of the Metropolitan Bakersfield General Plan Land Use Element. These include, but are not limited to:

- Goal 3: Accommodate new development which is compatible with and complements existing land uses.
- Goal 7: Establish a built environment which achieves a functional and visual relationship among individual buildings and sites.
- Policy 41: Provide for the intensification of downtown Bakersfield for governmental, financial, professional office, retail, residential, cultural, specialty, and supporting uses.
- Policy 53: Ensure that land use and infrastructure development are coordinated.
- Policy 55: Provide for the mitigation of significant noise impacts on adjacent sensitive uses from transportation corridor improvements.

Potential impacts related to land use consistency and compatibility with existing City plans and adjacent land uses must be analyzed in the RDEIR. Consideration of these impacts may not be deferred until after the alternatives package is chosen.

BO032-61

D. The RDEIR Does Not Analyze Or Mitigate Impacts Related To Aesthetics And Visual Resources Adequately

The Project will have significant impacts related to aesthetics and visual resources in the City of Bakersfield. A dominant elevated rail line, partially enclosed with sound barriers of undetermined appearance, is incompatible with many existing land uses in the vicinity of the proposed alignment alternatives. In Bakersfield, the alignments start to transition from a primarily at-grade configuration to an elevated configuration west of Verdugo Lane in northwest Bakersfield. The alignments continue through Bakersfield at elevations ranging from approximately 36 feet to approximately 84 feet above existing grade. Installation of sound barriers proposed along much of the proposed elevated track would further increase the height of the proposed alignment. The effect will be to erect a wall between approximately 36-85 feet in height through northwest and central Bakersfield, destroying the existing visual environment, interrupting the sense of openness and continuity that currently exists in these areas, and eliminating all existing vistas in the vicinity of the alignment. These impacts are not sufficiently explored or mitigated in the RDEIR, nor are alternatives proposed that would lessen or avoid these impacts.

BO032-62

As the RDEIR acknowledges, significant impacts related to aesthetics and visual resources may occur at Bakersfield High School, Our Lady of Guadalupe School, Owens Middle School, residential areas in Metropolitan Bakersfield, and numerous other sites. These impacts would remain significant even after implementation of the limited mitigation measures related to aesthetics and visual quality. (See RDEIR, pp. 3.16-146 – 3.16-151.) The Authority and the FRA have not provided a full range of alternatives that could potentially lessen or avoid these impacts, nor has an alternative alignment and station location that would completely avoid these impacts been studied.

BO032-63

V. CONCLUSION

To cure the significant defects in the RDEIR discussed above, the RDEIR must be revised to accurately describe the HST Project, to identify and analyze a reasonable range of alternatives to the Project and to analyze appropriately its environmental impacts. CEQA requires that a revised draft EIR be recirculated "[w]hen significant new information is added to an [EIR]" following public review and comment on an earlier draft. (Pub. Res. Code § 21092.1.) The public must be provided with an opportunity to review significant new information that is added to a draft EIR in order "to test, assess and evaluate the data and make an informed judgment as to the validity of the conclusions to be drawn therefrom." (*Sutter Sensible Planning, Inc. v. Board of Supervisors* (1981) 122 Cal.App.3d 813, 822.) Similarly, under NEPA, a revised EIS or supplement to the EIS must be recirculated. (*National Resources Defense Council v. Callaway* (2d. Cir. 1975) 524 F.2d 79,92.)

The RDEIR suffers from numerous inadequacies, and the Authority and the FRA must incorporate significant new information in their environmental assessment of the Project to analyze adequately the Project's environmental impacts, and to identify a reasonable range of alternatives and mitigation measures that are capable of alleviating those impacts. CEQA requires that this significant new information be presented to the public in the form of a recirculated draft EIR/EIS so that the public has a meaningful opportunity to review and comment on the new information. (See *Laurel Heights Improvement Ass'n v. Regents of University of California* (1993) 6 Cal.4th 1112, 1130.)

Very truly yours,

George J. Mihlsten
of LATHAM & WATKINS LLP

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

Subject: Review of Bakersfield Section High-Speed Train Project Revised Draft EIR/Supplemental Draft EIS

Matrix Environmental (Matrix) has conducted a comprehensive review of the Revised Draft EIR/Supplemental Draft EIS (EIR/EIS) prepared in support of the Fresno to Bakersfield Section High-Speed Train (HST) Project. Matrix is a specialized environmental consulting firm with recognized leaders in the environmental consulting field who have over 50 years of environmental consulting experience in preparing legally sound documentation pursuant to the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) for many of the most high-profile projects in Southern California. Matrix was formed with the specific intent of providing a service-oriented environmental firm with projects led by experienced senior managers who have the unsurpassed ability to efficiently create strategic and solution-oriented environmental documents. Our management accomplishments include the successful completion of environmental documents for projects such as the Los Angeles Convention and Event Center, the University of Southern California (USC) Development Plan, the NBC Universal Evolution Plan, the Village at Westfield Topanga, the Boyle Heights Mixed-Use Community Project, the Playa Vista Project, and the Disney | ABC Studios at The Ranch. An abbreviated version of Matrix's Statement of Qualifications is provided as Appendix C to this comment letter. Resumes of all Matrix personnel who worked on this review are provided as Appendix D to this comment letter.

Matrix's review of the EIR/EIS was conducted on behalf of Coffee-Brimhall, LLC and focused on the potential impacts the HST Project would have on the Bakersfield Commons project, in particular, as well as the City of Bakersfield, in general. We appreciate the opportunity to provide comments on the EIR/EIS for the HST Project. Our comments herein include specific comments regarding the EIR/EIS in the context of NEPA and CEQA. The comments provided below are organized by major issue heading.

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As described in detail in the comments below, the EIR/EIS includes numerous inadequacies that must be corrected. New significant impacts have been identified; new alternatives have been identified which require analysis; existing analyses and base assumptions need to be modified and/or substantiated; and new and modified mitigation measures must be adopted. Based on these deficiencies and the associated failure to comply with the requirements of NEPA and CEQA, the EIR/EIS must be revised and recirculated.

The following constitutes Matrix's comments on the EIR/EIS. Due to the size and complexity of the HST Project, additional comments may be submitted at a later date.

1. Proposed HST Project Significantly Impacts Bakersfield Commons Project

The Bakersfield Commons project is a 255-acre pedestrian-oriented mixed-use development located in northwest Bakersfield, at the northwest corner of Coffee and Brimhall Roads. The Bakersfield Commons project features an upscale urban lifestyle retail center, as well as general commercial and residential uses. The Bakersfield Commons project was approved by the City of Bakersfield in 2011 and consists of 1,400,000 square feet of retail and theater uses, and 600,000 square feet of office uses, comprising a total of 2,000,000 square feet of commercial development, as well as a total of 425 residential units consisting of 80 single-family detached units and 345 multi-family units. The conceptual plan for the Bakersfield Commons site is shown in Figure 1 on page 3.

The Bakersfield Commons project is designed as an inviting community and pedestrian-oriented upscale and vibrant lifestyle center consisting of community-serving retail uses aligned in a traditional "main street" configuration, emphasizing opportunities for social, cultural, recreational, and civic interaction. Lifestyle centers, such as the Bakersfield Commons project, cater to the retail needs and lifestyle pursuits of consumers in the market area, and have an open-air configuration, landscaped pedestrian promenades, and attractive gathering areas that reflect an upscale design ambience offering amenities such as fountains and street furniture that promote and facilitate leisure-time visits and casual browsing. The Bakersfield Commons project is guided by numerous design objectives which place a strong focus on aesthetics and visual interest. For example, the activity centers created within the Bakersfield Commons project would be visually connected by integrating buildings, plantings, and

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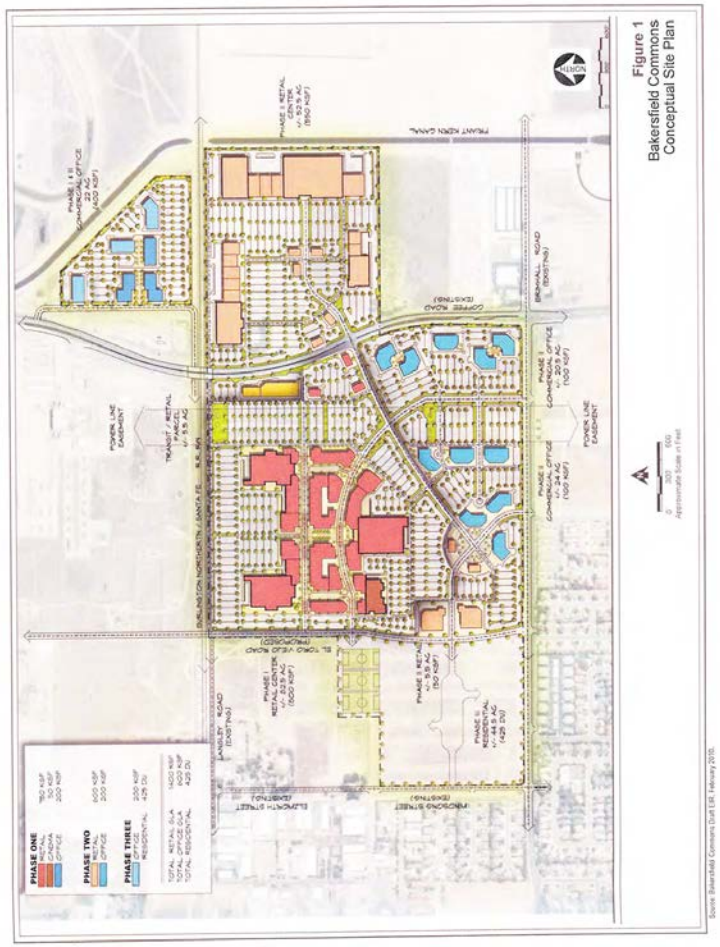

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pedestrian linkages which create a friendly, walkable urban environment utilizing combinations of landscape, architecture, paseos, gardens, plazas, and street plantings. The Bakersfield Commons project would also provide a network of bicycle trails and pedestrian walkways that link to adjoining neighborhoods. Complementing these visual connections is a strong emphasis on aesthetics. The aesthetic experience, whether it is experienced by a retail patron, commercial tenant, resident, or guest, starts with the first impression that occurs as one enters the development. Primary access to the Bakersfield Commons project occurs via Coffee Road and Brimhall Road, with Brimhall Road serving as the southern gateway to the Bakersfield Commons project. The critical Brimhall Road gateway includes four of the five entrances to the Bakersfield Commons site and is characterized by an enhanced landscaping plan designed to welcome people to the Bakersfield Commons site. Given these emphases on visual connections and aesthetics, any adverse effect on the visual and aesthetic environment at the Bakersfield Commons site, particularly at the gateways and entry points that are attributable to the HST Project, would have a profound negative impact upon the Bakersfield Commons project.

With regard to the HST Project, all of the alternatives analyzed in the EIR/EIS cross the Bakersfield Commons site. In proximity of the Bakersfield Commons site, the alignments for the Bakersfield South and the Bakersfield Hybrid Alternatives are the same. As such, while the EIR/EIS discusses three alternatives in the Fresno to Bakersfield section of the Statewide High-Speed Train project, in actuality there are only two alignments. Further, these two alignments are similarly situated as they are located only a few hundred feet apart as they bisect the southern portion of the Bakersfield Commons site. Refer to Figure 2 and Figure 3 on pages 5 and 6, respectively, as well as Sheets 270 and 272 of Appendix 3.1-A of the EIR/EIS (which are presented in Appendix A to this comment letter) regarding the location of the Bakersfield South/Bakersfield Hybrid and BNSF Alternatives relative to the Bakersfield Commons project. Across the Bakersfield Commons site, the Bakersfield South/Bakersfield Hybrid and BNSF Alternatives are proposed in an aerial alignment that rises between 60 and 82 feet above existing grade (see Drawing Nos. CB0770 and CB0771 of Volume 3, Section B of the EIR/EIS which are presented in Appendix B to this comment letter). With the addition of the HST Project's proposed sound wall, the height of the aerial guideway across the Bakersfield Commons site increases to 74 to 96 feet above existing grade.

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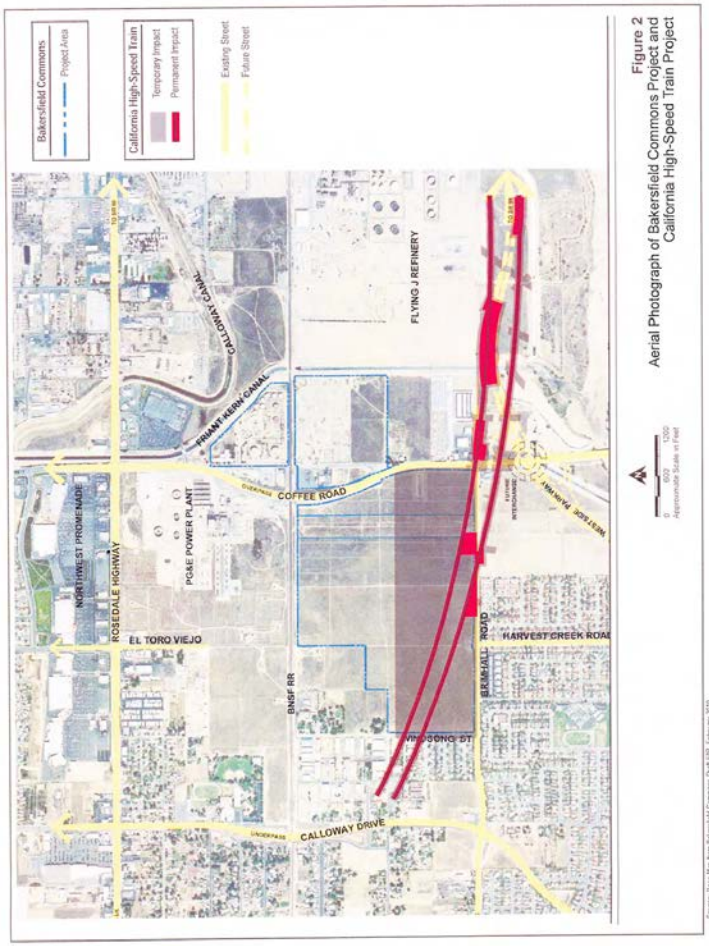

Figure 2
Aerial Photograph of Bakersfield Commons Project and California High-Speed Train Project

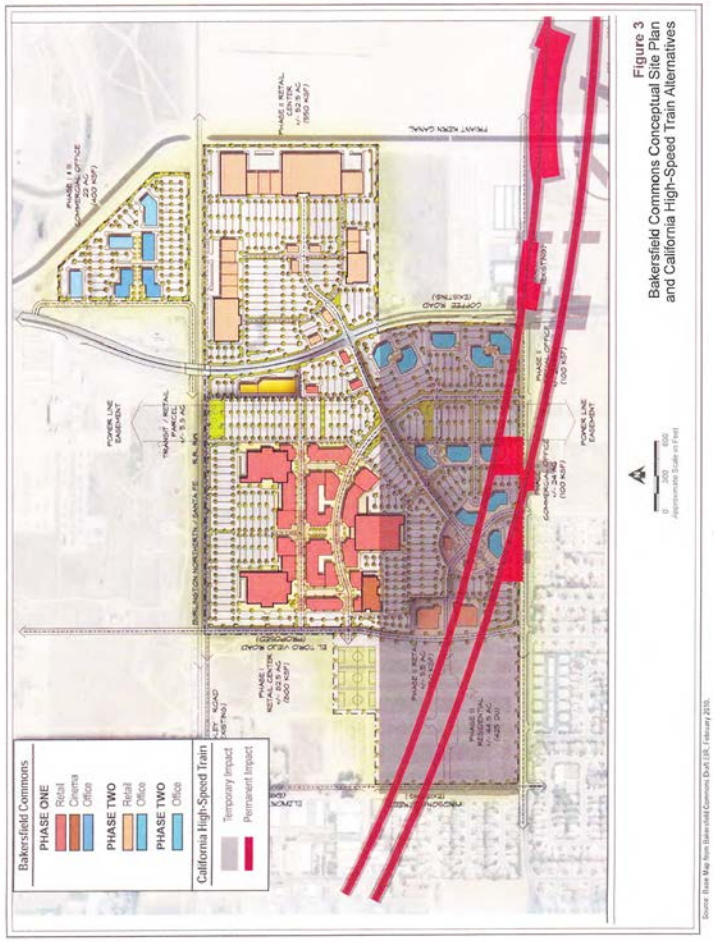

Figure 3
Bakersfield Commons Conceptual Site Plan and California High-Speed Train Alternatives

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As described in detail in the balance of this letter, the HST Project would create significant temporary and permanent impacts to the Bakersfield Commons project. Just in terms of acreage, the Bakersfield Hybrid/Bakersfield South Alternatives result in temporary impacts over a total of approximately 94 acres and permanent impacts over a total of approximately 7 acres (see Table 1 on page 8). In comparison, the BNSF Alternative results in temporary impacts over a total of 97 acres and permanent impacts over a total of 4 acres (see Table 1).

BO032-64

While these impacts are significant unto themselves, the functional impacts of the HST Project on the Bakersfield Commons project are not even mentioned in the EIR/EIS. The EIR/EIS takes the extremely narrow perspective that the permanent impacts of the HST Project are limited to only the footprint of the HST alignment. In terms of development potential, the extent of HST Project's permanent impacts on the Bakersfield Commons project extend beyond the boundaries of the HST Project's permanent impact zone, as the adjacent areas have their market viability as development sites significantly impacted. Conservatively, the HST project's functional permanent impact area would extend at least 250 feet on both sides of the permanent impact zones shown in the EIR/EIS. This compares to the 0.5-mile impact zone identified in the EIR/EIS, which is discussed later in this comment letter. Thus, under this very conservative assumption regarding the area of permanent impact, the Bakersfield Hybrid/Bakersfield South Alternatives would permanently impact a total of approximately 36 acres (see Table 1 and Figure 4 on page 9), whereas under the BNSF Alternative, a total of approximately 17 acres would be permanently impacted (see Table 1 and Figure 5 on page 10).

BO032-65

Whereas these acreage impacts are significant unto themselves, the locations within the Bakersfield Commons site that are affected by these permanent impacts substantially magnify these permanent impacts to the development potential of the Bakersfield Commons project. The multitude of ways these impacts manifest themselves is comprehensively documented in this comment letter and for example starts, but certainly not ends, with the extremely significant impacts the HST Project has on the visual attractiveness of the Bakersfield Commons site at the Bakersfield Commons' southern gateway along Brimhall Road and throughout the development. The HST Project most significantly impacts the area designated for residential development. The HST Project would place a permanent barrier 70+ to 90+ feet in

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Table 1
Impacts of Proposed High Speed Rail Alignments to Bakersfield Commons Site (Acres Impacted)[a]

HST Alternative	Revised Draft EIR/Supplemental Draft EIS		Functional Permanent Impacts[b]
	Temporary Impacts	Permanent Impacts	
Bakersfield South/ Bakersfield Hybrid	94	7	54
BNSF Alternative	97	4	37

[a] *All acreages are approximate and based on Appendix 3.1-A, Sheets 270 and 272 of the California HST Project Draft EIR/EIS, July 2012.*
[b] *Functional permanent impact zone defined as 250 feet from the boundaries of the Permanent Impact zone as shown in Sheets 270 and 272 of the California HST Project Revised Draft EIR/Supplemental Draft EIS, July 2012.*

height (which includes the proposed sound wall) that towers over and bisects the Bakersfield Commons residential development area (see Figure 3 and Figure 5 on pages 6 and 10, respectively). These impacts would, in essence, eliminate the market viability of developing residential uses in this area.

In summary, the HST Project functionally precludes development on up to 54 acres, of which approximately 31 acres are located within the commercial portions of the Bakersfield Commons site in addition to eliminating the market viability of locating the planned 425 residential units, the Bakersfield Commons' entire proposed residential component, next to and as an extension of the existing adjacent residential community.

Furthermore, the EIR/EIS does not identify or analyze the multitude of significant environmental impacts the HST Project creates with regard to the Bakersfield Commons Project (see detailed discussions below with regard to potentially significant community/land use, localized air quality, construction and operational noise, transportation hazards, stormwater management infrastructure impacts). As a matter of fact, the EIR/EIS shows severe disregard to the Bakersfield Commons project, as the Bakersfield Commons project is referenced at most a few times in at best a passing

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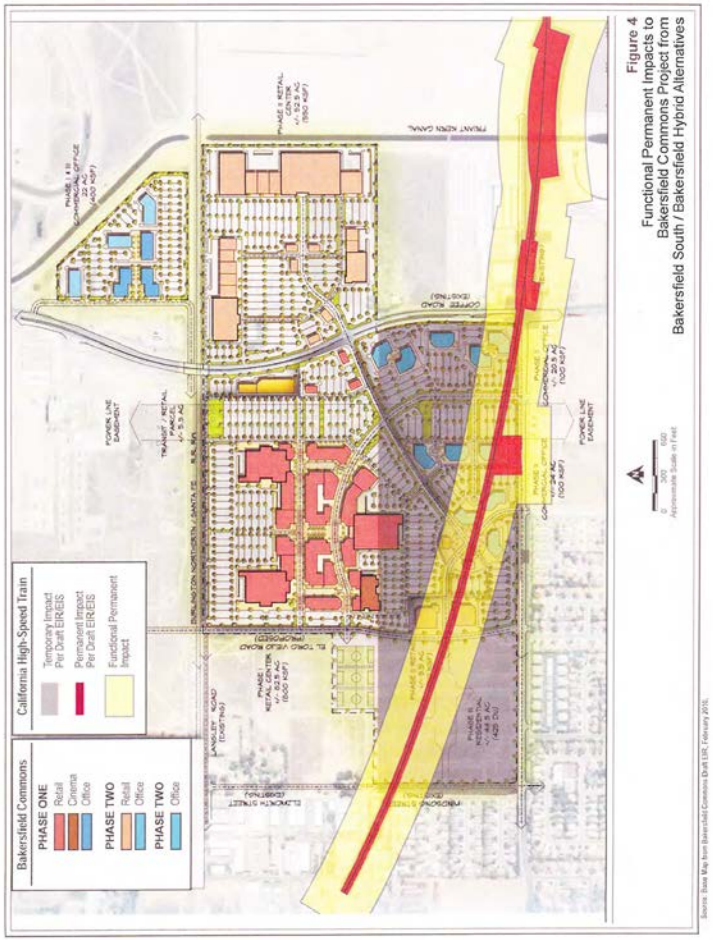

Figure 4
Functional Permanent Impacts to Bakersfield Commons Project from Bakersfield South / Bakersfield Hybrid Alternatives

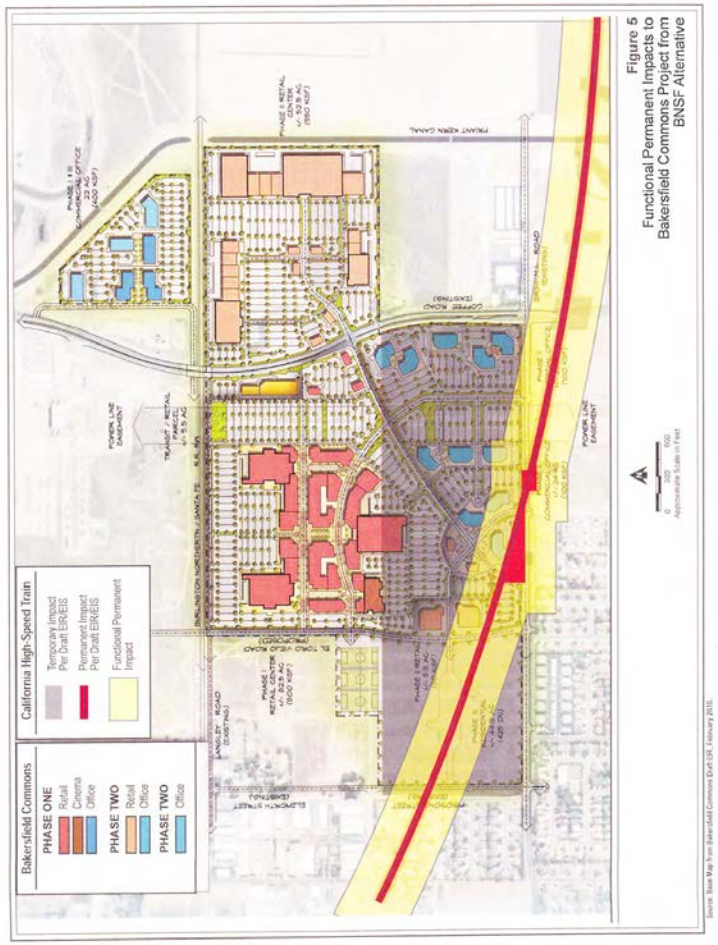

Figure 5
Functional Permanent Impacts to Bakersfield Commons Project from BNSF Alternative

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manner. For example, the text reference in the cumulative analysis is limited to how the development of the Bakersfield Commons project would reduce the visual impacts of the HST Project with no or extremely limited analysis of how the HST Project extensively and significantly impacts the Bakersfield Commons project. Other than minor passing references to generic land use impacts, the EIR/EIS fails to disclose how the HST Project divides and seriously impacts the Bakersfield Commons project. This is even more troubling and problematic with regard to the legal validity of the EIR/EIS given that the HST Project's cumulative analysis concludes that the same type of impact with regard to the Live Oak Master Plan (see p. 3.19-43) would be significant under both NEPA and CEQA, but fails to provide a comparable analysis and conclusion of significant impacts with respect to the Bakersfield Commons project.

BO032-67

2. EIR/EIS Recirculation Required Due to Fundamental and Extensive Document Deficiencies

The purpose of environmental documents prepared pursuant to NEPA and CEQA is to disclose the project's potential environmental impacts. When the environmental document fails to do this prior to certification under CEQA, the document must be revised to remedy its deficiencies and recirculated to the public for review and comment. As set forth in CEQA Guidelines Section 15088.5, recirculation is required if:

- A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted to reduce the impact to a level of insignificance.
- A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.
- The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

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Based on the comments provided above as well as in the balance of this comment letter, the following results:

- Implementation of the proposed HST Project would result in new significant impacts that are not disclosed in the EIR/EIS;
- Alternatives have been identified in these comments that address the significant impacts of the HST Project and implement the HST Project's stated Purpose and Need (NEPA) and basic objectives of the HST Project (CEQA) but have not been analyzed;
- Recirculation is mandatory unless all of the additional mitigation measures identified in this comment letter, which clearly lessen the HST Project's significant environmental impacts, are not adopted; and
- The responses to the comments set forth in this letter require the addition of substantial new information to the EIR/EIS which must be addressed in a recirculated EIR/EIS in order to achieve meaningful public review.

Each of these points individually is sufficient unto themselves to warrant recirculation of the EIR/EIS pursuant to Section 15088.5 of the CEQA Guidelines. Moreover, when taken collectively, these points present overwhelming and substantial evidence mandating the recirculation of the EIR/EIS pursuant to Section 15088.5 of the CEQA Guidelines.

BO032-68

3. EIR/EIS Fundamentally Flawed Due to Disconnect Between Purpose and Need and Alternatives Analyzed

Under NEPA, the statement of Purpose and Need is the foundation upon which an adequate document is built. Under CEQA, the equivalent concept is reflected in the Statement of Objectives. The Purpose and Need set forth in the EIR/EIS is to provide "the public with electric-powered high speed rail service that provides predictable and consistent travel times between major urban centers and connectivity to airports, mass transit, and the highway network in the south San Joaquin Valley and connect the northern and southern portions of the system."

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Whereas the HST Project's Purpose and Need and its CEQA Statement of Objectives are tied to linkages involving the City of Bakersfield, nothing is stated that limits the analysis of alternatives to alignments that functionally divide a large portion of the City of Bakersfield. Furthermore, the Purpose and Need statement does not reference a downtown Bakersfield station. The EIR/EIS ignores the purpose of an alternatives analysis as set forth in both NEPA and CEQA based on the premise that the Preferred Alignment and location of the Bakersfield station identified in the Statewide High-Speed Train EIR/EIS limits the alternatives analyzed in the Fresno to Bakersfield EIR/EIS regardless of the significant impacts identified in the EIR/EIS, which are expanded upon in this comment letter. Furthermore, the description in Section 2.0 of the EIR/EIS suggesting that there are "alternative" alignments or station locations with regard to the City of Bakersfield is disingenuous at best, as all three alignment and station "alternatives" are slight design variations that are all located in the same general location within the City of Bakersfield (±500 feet of one another with regard to both the

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HST alignments and the station locations). The language used in the EIR/EIS is also highly suspect with regard to the identified location of the Bakersfield station by stating that the Truxtun Station is the "most compatible with Bakersfield land use plans." This determination is set forth in the EIR/EIS without providing substantial evidence in the record supporting such a claim, a claim which can only be made by analyzing station alternatives that reflect a reasonable range of alternatives. In this case a reasonable range of alternatives includes locations in several other portions of the City of Bakersfield, for example, an alternative that avoids downtown Bakersfield by traveling along SR 99 with a station located at the Meadows Field Airport. In terms of the HST Project's Purpose and Need, no language is provided which establishes any basis that supports this lack of true alternatives in terms of alignments through Bakersfield or the location of the Bakersfield station.

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4. Lack of Alternatives Offers No Option to the Extensive and Disproportionate Displacement and Relocation Impacts in the City of Bakersfield

The EIR/EIS clearly states that the proposed BNSF alignment in Northwest Bakersfield displaces 145 homes (444 people), 19 non-residential properties, 2 health centers and 2 churches. The City of Bakersfield is also subject to significant and disproportionate impacts regarding relocations. Based on data presented in the EIR/EIS, the City of Bakersfield would be subject to 265 of a total of 451 residential units relocated (which translates to 811 of the 1,430 people forecasted to be relocated);

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and 302 of a total of 395 businesses (1,522 of 2,458 employees). As such, approximately 60 percent of total system impacts would occur within the City of Bakersfield. When comparing these totals to those occurring in other jurisdictions, the only conclusion that can be reached is that the City of Bakersfield would be subjected to significant and disproportionate displacement and relocation impacts compared to the other jurisdictions through which this section of the HST travels.

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While the EIR/EIS concludes these impacts to be significant within the identified Bakersfield Central and Northeast districts, the same conclusion is not reached with regard to Bakersfield's Northwest district, which includes the Bakersfield Commons site. The conclusion of less than significant impacts with regard to Bakersfield's Northwest District is set forth in the EIR/EIS without any explanation as to the basis for the distinction in impacts. Based on the extent of impacts to the Bakersfield Commons site as well as the areas to the east and west of the Bakersfield Commons site (e.g., displacement/relocation, community/land use, noise, air quality, etc.), it is impossible to reach any conclusion other than the displacement and relocation impacts to Bakersfield's Northwest District are significant as well. As a result of these significant

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impacts plus significant community and land use impacts, the EIR/EIS is obligated to analyze at least one, and more reasonably more than one, alternative alignments and station locations that eliminate or substantially reduce these, as well as the other significant impacts identified in this letter. One such alternative that would respond to the HST Project's myriad of significant impacts, which also satisfy the HST Project's stated Purpose and Need (NEPA) and CEQA Objectives, would travel along the northern edge of the urbanized area of Bakersfield and then turning south and connecting to a station located along the eastern edge of urbanized Bakersfield. It is also important to note that alignments that run along the north and east edges of urbanized Bakersfield would still be located within the "General High Speed Train Corridor," as shown in Figure 1-2 of the EIR/EIS. Within and in proximity to this corridor, additional alternatives with regard to station locations are required to be analyzed in order to fully understand the trade-off of impacts across a spectrum of alternatives that achieve the stated Purpose and Need (NEPA) and the Project's basic CEQA Objectives

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5. Range of Alternatives Analyzed Deficient under CEQA

In addition to the deficiencies in the alternatives analysis set forth above, as the EIR/EIS must comply with all CEQA requirements, in addition to all NEPA requirements, the analysis of alternatives in the EIR/EIS fails on two key CEQA requirements. First, the EIR/EIS fails to analyze a reasonable range of alternatives as the analyzed alignments are less than 500 feet apart. Second, the EIR/EIS fails to analyze alternatives that reduce or eliminate the significant impacts of the HST Project. These deficiencies are inherent in the existing document as the multitude of significant HST Project impacts identified in the EIS/EIR are not addressed by the alternatives analyzed, a situation that is exacerbated by the identification of the additional significant impacts documented in this letter (e.g., displacement/relocation, community/land use, visual character and aesthetics, air quality, noise, transportation hazards, stormwater management infrastructure). As such, a series of alternatives to the proposed guideway alignments and Bakersfield station location must be identified and analyzed in a recirculated EIR/EIS. Suggestions and guidance with regard to reasonable alternatives that must be analyzed are outlined above.

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6. HST Project's Significant Community Impacts Require Mitigation

The EIR/EIS states that the HST Project seeks as an objective "preserving community character and minimizing conflicts between incompatible land uses." The EIR/EIS also includes the following statements that address the real impacts of the HST Project:

- "Similarly, substantial changes in visual quality or aesthetics could result in a perceived change to community character or the quality of life experienced in affected neighborhoods." (p. 3.12-5)
- "While benefits are typically regional in nature, the construction and operation impacts are more localized in specific communities." (p. 3.12-5)
- "The study area for direct and indirect impacts on population, communities, and environmental justice is defined as the 0.5-mile radius from the centerline of all proposed alignment alternatives." (p. 3.12-11)

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- "Impacts and effects on communities are expected to occur within this 0.5-mile radius study area, inasmuch as this area represents where key resource effects on property relocation; transportation; noise and vibration; safety and security; aesthetics; parks, recreation, and open space; and cultural resources would occur." (p. 3.12-11)
- "To be conservative and to avoid underestimating displacements and relocations, all residences and businesses on partially acquired parcels, including those that may ultimately be temporarily affected—for example, impacts associated with construction that are not expected to last through project operation—are counted as full displacements requiring relocation." (p. 3.12-6)
- "According to CEQA, the effect of a project on a neighborhood or community is significant if a project would create a new physical barrier that isolates one part of an established community from another and potentially results in a physical disruption to community cohesion. Community impacts are typically considered to be less than significant under CEQA unless they would divide an existing community." (p. 3.12-61)
- "In these areas [Northwest] the substantial acquisition of right-of-way and redevelopment of properties for the BNSF Alternative would divide established communities." [text added] (p. 3.12-68)

Based on a cursory review of the above statements, even the most casual observer would reach the conclusion that the HST Project's significant impacts are severe as all HST alignments slice through and divide the Bakersfield Commons site as well as Northwest Bakersfield. Per the standards established in the EIR/EIS, these impacts extend for a distance of 0.5 mile on both sides of the alignments (see third and fourth bullets listed above). Moreover, using the criterion set forth in the EIR/EIS (see fifth bullet listed above), the entire Bakersfield Commons site is significantly impacted. These conclusions are confirmed by the EIR/EIS which states; "[I]n summary, the High-Speed Train System would result in substantial effects under NEPA, and significant impacts under CEQA related to the division of existing communities as well as the residential, commercial, industrial, and agricultural property displacements." While the EIR/EIS clearly concludes significant impacts at all levels, no alternatives are identified and analyzed that lessen these significant impacts. These points are expounded upon further in the comments provided in this letter.

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Also of note is that while the EIR/EIS identifies a significant impact with regard to community impacts, the EIS/EIR fails to make this finding with regard to commercial displacements in Bakersfield's Northwest District. Based on the serious and extensive impacts to the Bakersfield Commons project as identified in this letter, significant impacts would occur with regard to Bakersfield's Northwest District that are not disclosed in the EIR/EIS.

BO032-76

7. Cohesive Existing Neighborhoods and Adjacent Future Neighborhoods in the City of Bakersfield Would Be Significantly Impacted

As described above, the HST Project would divide the northwestern and central portions of the City of Bakersfield and will negatively redefine these areas as those that are south and north of the tracks. The HST Project would place a barrier up to 90+ feet in height, in areas of the proposed sound walls, through and adjacent to existing residential and commercial areas. This barrier would seriously impact existing neighborhood identity and inhibit the ability for responsible growth in existing developed areas, particularly in northwest Bakersfield. In this manner, the HST Project negates many years of successful planning in Bakersfield aimed at creating cohesive, visually attractive development. The importance of preserving cohesive, visually attractive development is reflected in several of the principles included in the City's General Plan Update which include, but are not limited to the following:

- "The preservation and conservation of existing residential neighborhoods whose identity is characterized by the quality and maintenance of existing construction, stability, and reputation as a "special" place in the community" (Land Use Element, p. 4.1-16, Basic Principle (a));
- "The infill of vacant parcels at prevailing densities" (Land Use Element, p. 4.1-16, Basic Principle (b)); and
- "The preservation of stable, primarily single-family neighborhoods" (Land Use Element, p. 4.1-16).

The failure of the HST Project to respect and coexist with these principles underscores the incompatibility of the HST Project with the Bakersfield General Plan, and is yet another basis which requires that alternative HST alignments and station locations that avoid the urbanized areas of the City of Bakersfield be analyzed in a

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recirculated EIR/EIS. Moreover, the HST Project's land use impacts go far beyond being inconsistent with a General Plan policy but rather attack and undermine the critical General Plan principles that relate to the existing neighborhoods in Bakersfield that are seriously and significantly impacted by the HST Project.

BO032-77

In addition, the analysis of the effects of the HST Project on the surrounding land uses is extremely poorly defined. As a result, the EIR/EIS fails to disclose a multitude of significant land use impacts that when considered as a whole underscore the serious and broad-based significant impacts of the proposed HST alignments and station locations that can only be remedied by an alternative HST alignment and station location that avoid the urbanized areas of Bakersfield. To further exacerbate the problem, the analysis that is provided focuses only on development related to the HST system itself, rather than how the HST Project impacts existing and approved land uses.

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Rather than disclose the serious and significant impacts that the HST Project would have on existing neighborhoods in Bakersfield, the EIR/EIS concludes that "the alternative alignments would not change the pattern or intensity of adjacent land uses" (p. 3.13-48). Rather than solve the impacts of the HST Project, the EIR/EIS concludes all that can be done is that "[T]he Authority would work with local governments to amend their plans to reduce the land use conflicts where appropriate" (pp. 3.13-58 and 3.19-39). The EIR/EIS further attempts to marginalize the serious and significant impacts the HST Project would have on existing neighborhoods in Bakersfield by couching the High-Speed Train's land use impacts in a regional context as the basis for concluding less than significant impacts, rather than in a local context which is where land use compatibility impacts occur. Another example of how the EIR/EIS understates its impacts is reflected in the analysis of this issue, which states that construction of the entire HST Project temporarily uses 210 acres outside of the permanent footprint for construction staging, laydown, and fabrication (p. 3.13-59). If this is correct, why is approximately 40 percent, or nearly 100 acres within the Bakersfield Commons site, identified as being subjected to temporary impacts?

In closing with regard to this particular issue, given that these impacts are inherent in any alignment that divides the urbanized areas of Bakersfield, alternatives for the HST alignment and station location that avoid the urbanized areas of Bakersfield must be identified and analyzed in a recirculated EIR/EIS. Such analysis and review

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process are required, as such alternative alignments are feasible that would be consistent with the HST Project's Purpose and Need (NEPA) and basic objectives (CEQA) as well as directly responding to the significant and far-reaching impacts of the proposed HST Project.

BO032-79

8. EIS/EIR Fails to Disclose and Properly Mitigate the HST Project's Significant Aesthetics and Visual Character Impacts

The aesthetic and visual environment in Bakersfield is one that is defined by a sense of openness, which manifests itself in the ability to see long distances, and is complemented by a pattern of urban development which creates visual interest with areas developed with mid-rise development. Northwest Bakersfield is an area of the City that has been developed more recently and is characterized by development exhibiting high quality, attractive visual and architectural features, and that is complemented by thoughtful and well integrated landscaping plans. Thus, the various neighborhoods and developments within northwestern Bakersfield exhibit a high degree of visual cohesiveness and visual integrity.

Within northwest Bakersfield, the HST Project transitions from an at-grade alignment under all alternatives to an aerial guideway which continues throughout Bakersfield until reaching the proposed Bakersfield Station. More specifically, the HST alignments start to transition from primarily an at-grade configuration to an elevated configuration west of Verdugo Lane in northwest Bakersfield (elevation of approximately 370 to 375 feet above mean sea level; refer to EIR/EIS Volume 3, Section B, starting with Drawing No. CB0765 and continuing through Drawing No. CB0790). At Calloway Drive, south of Slikker Drive, the alignments are approximately 36 feet above existing grade. When crossing Elzworth Street, south of Thistlewood Court, which roughly corresponds to the western boundary of the Bakersfield Commons site, the HST guideway is approximately 60 feet above existing grade. Continuing eastward, when the guideway crosses Brimhall Road, east of River Ranch Road, which roughly corresponds to the southeastern corner of the Bakersfield Commons site, the guideway is approximately 82 feet above existing grade. At this point and continuing eastward, the elevation of the HST guideway generally levels off at approximately 84 feet above existing grade south of Brimhall Road and east of Windsong Street. Based on the data presented in the EIR/EIS, across the Bakersfield Commons site, the HST guideway ranges between approximately 60 and 82 feet above existing grade. With the addition

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of the proposed sound walls, an additional 14 feet of height is added to the guideway. As the sound wall is proposed for most of the HST guideway alignment through Bakersfield, the actual height of the HST Project is 14 feet higher than that indicated above. Further, the mast poles carrying the electrical lines which power the trains would extend an additional 23.5 feet above the tracks and would occur every 200 feet in straight portions of the track and more frequently when the track turns.

Conclusions presented in the EIR/EIS that are relevant with regard to the visual impacts of the HST Project include the following:

- "Aesthetic and visual resource impacts are generally defined in terms of the extent to which the project's physical characteristics and potential visibility would change the perceived visual character and visual quality of the viewed landscape."
- "The [High-Speed Train] facilities are expected to integrate into the landscape context so that view blockage, contrast with settings, light and shadow effects, and other visual impacts would be minimized." [clarifying text added]
- "Where possible, the design is at-grade, which would reduce view blockage and intrusion from aerial structures."
- "It would also follow existing transportation corridors, reducing changes in visual character."

Based on the description and information provided above, the HST Project would significantly change the perceived visual character and visual quality of the visual landscape for the length of the alignment through the City of Bakersfield by creating a substantial and continuous barrier dividing the City that is generally 60 to 85 feet in height. In areas where sound walls would be constructed, which is a large part of the alignment in Bakersfield, the height of the HST Project increases to 74 to 99 feet. While the EIR/EIS states that the HST facilities are expected to "integrate into the landscape context so that view blockage, contrast with settings… and other visual impacts would be minimized," the reality of the situation is that the complete opposite occurs. Further, the EIR/EIS conclusion that at-grade locations "would reduce view blockage and intrusion from aerial structures" clearly indicates that the EIR/EIS also concludes that aerial structures are visually intrusive. Not surprising, the EIR/EIS fails to state this

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conclusion outwardly, thereby failing to disclose the inherent significant impacts associated with HST aerial structures. Along these same lines, the EIR/EIS also concludes that when the HST alignments follow existing transportation corridors, changes to the visual environment are reduced. As the HST alignments through and in the vicinity of the Bakersfield Commons site do not follow existing transportation corridors, the additional visual impacts that result also contribute to the undisclosed significant visual impacts attributable to the HST Project.

As a result, the HST Project creates a significant impact relative to the existing visual environment by destroying visual continuity and the sense of openness which comprise the character defining features of the visual environment within the Bakersfield Commons site as well as throughout the other sections of the City of Bakersfield that would be divided by the HST Project. Moreover, with regard to the Bakersfield Commons project, these impacts occur at a development site that functions as a high-sensitivity receptor given the critical importance of the visual environment that will be created at the Bakersfield Commons site (see earlier discussions regarding the critical role the visual environment plays in the context of an upscale lifestyle center, which serves as the focal point and engine that drives the success of the Bakersfield Commons project).

The mitigation measures presented in the EIR/EIS in response to the HST Project's significant visual impacts identify approaches that respond to the significant impacts but lack the requisite specific commitments. Due to the generalities embodied in the HST's visual mitigation measures, they also fail to meet the CEQA specificity requirements when mitigation measures incorporate performance standards. For example, the EIR/EIS states, "Local community design guidelines will be addressed during the subsequent phase of detailed architectural design and system engineering" (p. 3.16-2). As this is in clear violation of CEQA and therefore completely unacceptable, the following feasible modifications to the stated mitigation measures are required to lessen the HST Project's significant impacts and to comply with all requisite CEQA and NEPA requirements:

- Modify Mitigation Measures AVR-MM #2a, AVR-MM #2b, and AVR-MM #2f to include the affected property owner in the coordination. Further, the affected property owner shall determine the actual measures to be implemented.

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- Apply Mitigation Measure AVR-MM #2a, Action Bullet 5 to elevated guideways.
- Apply Mitigation Measure AVR-MM #2c to development sites with land use approvals at the time of release of the Final EIR/EIS as these projects can be implemented in accordance with their respective City approvals and thus be afforded the same protections as an existing use. As the Bakersfield Commons project is a high-sensitivity visual receptor, it should be included as a location provided relief by this mitigation measure. Further, as defined in the EIR/EIS, and noted above, the adjacent at-grade areas subject to this mitigation measure shall be those locations within the Bakersfield Commons site that are located within 0.5 mile of the proposed alignment
- To further mitigate the HST Project's significant visual impacts, tiered landscaping shall be installed at the Bakersfield Commons site, in accordance with a landscaping plan designed and approved by the Bakersfield Commons property owner. The area subject to this mitigation measure shall be those portions of the Bakersfield Commons site that are within 0.5 mile of the HST alignment. This portion of the Bakersfield Commons site is selected for mitigation as the EIR/EIS defines the visual foreground as up to 0.5 mile from the HST alignment (p. 3.16-8). Furthermore, the Authority shall be responsible for the maintenance of this landscaped area consistent with the Bakersfield Commons landscaping plan and approved by the Bakersfield Commons property owner. This last provision is of critical importance as the EIR/EIS indicates that the "Authority will ensure that vegetation will be continuously maintained and appropriate irrigation systems will be installed" but provides no detail as to how this would actually occur.
- Extend Mitigation Measure AVR-MM #2e to apply to the Bakersfield Commons site, as concluded above that viewers at the Bakersfield Commons site, per the EIR/EIS definition, "are likely to have expectations of a built environment with a higher level of vividness, intactness, and unity."

Implementation of the above modifications to the existing mitigation measures would reduce but not eliminate the significant visual impacts to the Bakersfield Commons project. The only mitigation that would eliminate the residual significant visual and aesthetic impacts to the Bakersfield Commons project is via the implementation of a HST alignment that does not traverse or travel in proximity to the Bakersfield Commons site. This is yet another basis upon which the analysis of

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alternative alignments is required. Please refer to earlier comments regarding requested alternative alignments and station locations as well as the identification of the criteria upon which additional alternatives are to be defined and analyzed.

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9. EIR/EIS Fails to Provide Critical Analyses and Disclose Significant HST Air Quality/Climate Change Impacts

A technical review of the air quality and climate change sections of the EIR/EIS identified a number of deficiencies that are described in detail below.

a. Inadequate Analysis of Localized Construction Air Quality Impacts

The EIR/EIS acknowledges that the construction phase of the HST alternatives would exceed the General Conformity applicability thresholds for volatile organic compounds (VOC), nitrogen oxides (NOx), and carbon monoxide (CO). The EIR/EIS indicates that these impacts would be addressed via purchase of offset emissions through a Voluntary Emission Reduction Agreement (VERA) that would reduce regional impacts. While Section 3.3.9.1 of the EIR/EIS acknowledges that localized significant impacts could occur, no analysis of these potentially significant impacts is provided. In lieu of a quantitative analysis of localized criteria pollutant concentrations during the construction phase of the HST Project, the EIR/EIS concludes that localized impacts are less than significant because HST construction is short-term and that regional emissions would be offset through the aforementioned VERA. However, the rationale provided is not valid with regard to localized construction criteria pollutant impacts as the VERA only addresses regional emissions, which are not a guaranteed indicator of potential localized impacts. Whereas the VERA may reduce regional emissions, localized pollutant concentrations must also be evaluated to determine whether the HST alternatives could potentially exceed an ambient air quality standard (AAQS) or contribute to existing exceedances of an AAQS. Simply concluding that local exceedances may result but impacts would be less than significant because impacts are short-term and regional emissions would be reduced via the VERA ignores the serious and significant health impacts that can result from short-term exposures. These include asthma and other health related impacts, and are not really short-term since they can last for a year or more and adverse health impacts can be triggered by a limited number of exposures.

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Even though the EIR/EIS finds less than significant construction air quality impacts, two mitigation measures are identified which on their surface appear to address the HST Project's localized criteria pollutant impacts. However, any benefit which may accrue from these two measures is completely compromised by the qualifying language included in each of the two measures. Specifically, the text of mitigation measure AQ-MM#1 just requires documentation of efforts to locate newer equipment and/or tailpipe retrofits. Further, mitigation measure AQ-MM#2 contains similar language that renders the mitigation measure meaningless with the addition of the clause "to the extent reasonably practicable." In reality, the language of these two mitigation measures strips away all substantive requirements and can yield the situation in which the emission reductions touted by these mitigation measures never materializes. While mitigation measures AQ-MM#1 and #2 would address localized criteria pollutant impacts, the language used in the mitigation measures do not actually require anything, with the analysis falling back on the VERA as the mitigating measure which does not guarantee localized emissions reductions, as described above.

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b. Inadequate Analysis of Localized Operational Air Quality Impacts

From an operational standpoint, it seems reasonable that overall regional emissions would decrease with implementation of the HST Project. However, the EIR/EIS makes no attempt at addressing localized criteria pollutant impacts that could potentially occur in close proximity to the stations as a result of increased localized activity. Without this analysis, the EIR/EIS fails to provide substantial evidence in the administrative record with regard as to whether HST operations around the station locations would cause an exceedance of an AAQS or contribute to existing exceedances of an AAQS. Without this analysis it is impossible to determine the mitigation measures that may be required to address this potentially significant impact, which not only impacts the attainment status of the air basin but may also result in significant health effects (i.e., significant air quality health impacts are not limited to those analyzed in the EIR/EIS).

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c. EIR/EIS Greenhouse Gas (GHG) Analysis Fails to Identify and Address Significance Thresholds

The GHG analysis presented in the EIR/EIS is deficient in that it fails to clearly state the significance thresholds upon which the HST Project's GHG impacts are to be

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assessed. However, the EIR/EIS analysis references the 29 percent reduction in GHG emissions standard per the AB 32 Scoping Plan, which is also commonly used as one of the significance thresholds for assessing GHG impacts. Whereas the EIR/EIS analysis identifies the net regional differences in GHG emissions attributable to the HST Project, the analysis fails to demonstrate a percentage reduction.

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d. HST Project Consistency with Air Quality Plans is Questionable

The EIR/EIS concludes that the HST Project would result in significant localized impacts regarding HMF/MOWF facilities after mitigation. The analysis of the HST Project's consistency with air quality plans seems to ignore this residual significant impact and concludes that the HST Project is in compliance with applicable air quality plans simply in terms of regional emissions. The EIR/EIS analysis and conclusion of HST Project consistency with applicable air quality plans constitutes a substantial leap of technical judgment as the applicable air quality plans specifically focus on localized pollutant concentrations which are a completely different category of impacts that do not directly correlate with regional emissions. In other words, regional emissions address conditions in a basinwide context, where impacts can be offset via the VERA, but does not preclude the creation of a localized impact that exceeds the AAQS, and in turn, result in a significant impact with regard consistency with applicable air quality plans.

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10. EIR/EIS Noise Analysis and Mitigation Measures Require Additional Specificity

A technical review of the noise analysis presented in the EIR/EIS, conducted by Matrix Environmental, identified the deficiencies that are described in detail below.

a. HST Project Results in Significant Construction Noise Impacts

Data provided in the EIR/EIS noise analysis indicates that construction noise levels could exceed the established criteria at many locations in the City of Bakersfield, including, but not limited to the Bakersfield Commons site. This significant impact is addressed by mitigation measure N&V-MM #1 which sets forth construction noise control measures. However, the noise control measures set forth in this mitigation measure may not be effective given the current language of this mitigation measure; e.g., uncertainty with regard to the effectiveness of the required noise barrier, failure to

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establish a process for reporting non-compliance and enforcement of non-compliance via financial penalties, and inconsistency with the provisions of the City of Bakersfield's Noise Ordinance.

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Also of note is that significant noise impacts can occur even if the noise limits set forth in the EIR/EIS are not exceeded as a result of the incremental difference between ambient conditions and construction noise levels. In other words, the construction noise significance threshold used in the EIR/EIS analysis is set at an absolute level and as long as that level is not exceeded, the EIR/EIS concludes impacts to be less than significant, regardless of existing ambient noise levels in an area. For example, per Table 3.4-1 of the EIR/EIS, construction noise levels up to 85 dBA are permitted in commercial areas. Thus, in areas with ambient noise levels around 60 dBA, a 20 dBA increase is permitted. It is commonly held that a 10 dBA increase in noise levels equates to a doubling of the noise level (see EIR/EIS Noise and Vibration Technical Report, pp. 3-1 and 3-2). As such, in the example provided above, there could be a quadrupling of the existing noise level and this extreme change in noise conditions would be concluded to be less than significant since the 85 dBA significance threshold was not exceeded. Thus, the construction noise analysis needs to be revised to establish construction noise thresholds expressed in terms of both absolute levels as well as in terms of an incremental increase in noise levels above ambient levels. These analyses need to be based on field measurement data at all noise-sensitive land uses located along the HST alignments as well as at sites which have heightened sensitivity to noise (e.g., the lifestyle center at the Bakersfield Commons site). Typically, the incremental noise significance threshold used for analyses of this type varies between 5 and 10 dBA above ambient noise levels (e.g., a significant impact would occur if HST construction noise levels exceed ambient conditions by more than 5 dB). Further, under no circumstances should the incremental construction noise significance threshold be greater than 10 dBA, as this level of noise increase, as noted above, corresponds to a doubling of sound levels.

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In addition to establishing a more stringent construction noise significance threshold, the following changes to mitigation measure N&V-MM #1 are required to control HST Project construction noise impacts:

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1. Construction sound barriers shall be of sufficient height to interrupt the line-of-sight between the construction activity and receptor location;
2. Prohibit nighttime construction in residential areas;
3. Establish a noise hotline and community liaison to address noise complaints and require severe financial penalties for repeat violations of the established noise limits; and
4. Prohibit impact pile driving within 50 feet of all buildings.

Further, as the EIR/EIS indicates that "Local ordinances and standards will always take precedence over the 'reasonable guidelines' established by the FRA" (EIR/EIS Noise and Vibration Technical Report, p. 8-3), permitted hours of construction shall be in accordance with the City of Bakersfield's Noise Ordinance and be applied to noise sensitive commercial uses, such as those at the Bakersfield Commons site.

BO032-88

b. HST Project Results in Significant Operational Noise Impacts

Significant impacts would also occur after mitigation within the portion of the Bakersfield Commons site proposed for residential development. Residual impacts of this type functionally eliminate the development potential of this area given limitations related to securing financing for constructing new residential units in locations subject to significant permanent noise impacts.

From an analytical perspective, the EIR/EIS understates the actual noise levels of the HST Project, as shown in Table 2 on page 29, as noise levels are averaged over 24 hours when the HST system stops operations at midnight. As further clarification of this issue, the operational significance threshold used in the EIR/EIS is defined in terms of day-night noise levels (L_{dn}) rather than averaged (L_{eq}) over a 1-hour basis. The L_{dn} noise metric is calculated by logarithmically summing the hourly forecasted noise levels for each hour of the day (24 hours) and adding 10 dB to noise levels occurring between 10:00 P.M. and 7:00 A.M. to account for the increase in human sensitivity to noise during these nighttime hours. Since HST Project operations cease at midnight and do not start again until 6:00 A.M., there are 6 hours (25 percent of the entire day) when HST Project noise levels are zero. Thus, including these hours when no noise impacts occur in the

BO032-88

calculation of L_{dn} noise levels results in an understatement of the actual noise levels that would be generated by the HST project (i.e., the L_{dn} noise levels are calculated based on an average that includes 6 hours of zero operational HST noise impacts). This is particularly problematic for noise levels occurring during the evening hours when people's sensitivity to increased noise levels is particularly acute (see discussion below).

BO032-89

Whereas the EIR/EIS operational noise analysis uses the L_{dn} metric, the Community Noise Equivalent Level (CNEL) noise metric is also commonly used in California to assess noise impacts from sources that operate throughout the daily time period. While L_{dn} and CNEL noise levels are generally within 1 dB of one another, the importance of understanding the CNEL noise metric is that it recognizes people's heightened sensitivity to noise levels occurring between 7:00 P.M. and 10:00 P.M. (i.e., 5 dB is added to the forecasted L_{eq} noise level during this period when calculating the CNEL noise level). Thus in order to provide an accurate assessment of the HST Project's operational noise impacts, the analysis needs to be revised to assess noise impacts on a L_{eq} basis to inform the public of the actual noise impacts of the HST Project during its hours of operations rather than simply providing an L_{dn} analysis which understates the HST Project's actual noise impacts. Further, this hourly L_{eq} analysis should be conducted for the daytime, evening (7:00 P.M. to 10:00 P.M.), and nighttime (after 10:00 P.M.) time periods.

BO032-90

In addition to the deficiencies in the EIR/EIS noise analysis presented above, the EIR/EIS noise analysis fails to analyze potential noise impacts associated with maintenance activities that occur after midnight, the most sensitive time of the day for residential receptors. To the extent that this analysis concludes that significant impacts will occur, mitigation measures must be identified to reduce all impacts from this operational component of the HST Project to a less than significant level.

BO032-91

11. EIR/EIS Fails to Analyze Potential Transportation Hazards

Section 3.2.3.5 of the EIR/EIS identifies under the heading of "CEQA Significance Criteria" that a significant effect on the environment would occur if the HST Project would "[S]ubstantially increase hazards due to a design feature (such as sharp curves or dangerous intersections) or from incompatible uses (such as farm equipment)." While the EIR/EIS clearly establishes a significance threshold with regard

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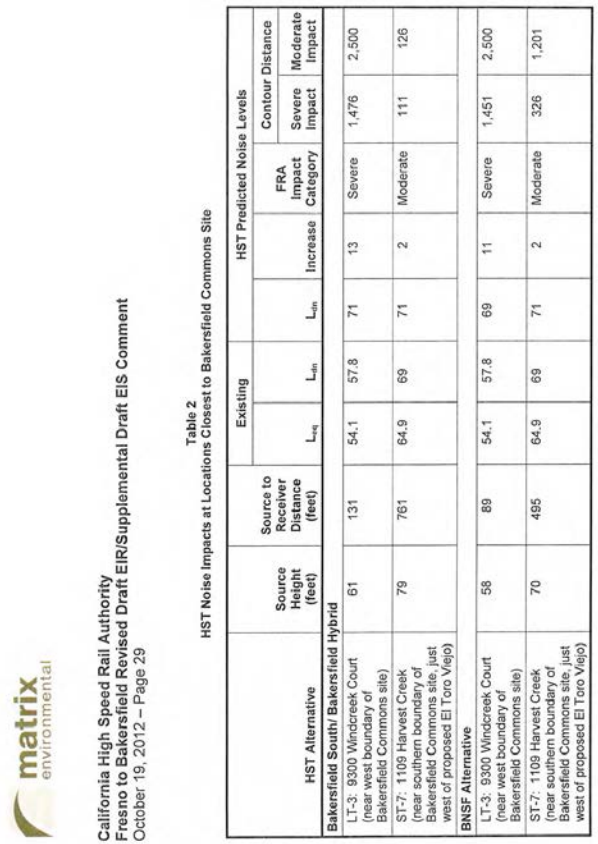

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Table 2
HST Noise Impacts at Locations Closest to Bakersfield Commons Site

HST Alternative	Source Height (feet)	Source to Receiver Distance (feet)	Existing	HST Predicted Noise Levels				Contour Distance	
			L_{eq}	L_{dn}	L_{dn}	Increase	FRA Impact Category	Severe Impact	Moderate Impact
Bakersfield South/ Bakersfield Hybrid									
LT-3: 9300 Windcreek Court (near west boundary of Bakersfield Commons site)	61	131	54.1	57.8	71	13	Severe	1,476	2,500
ST-7: 1109 Harvest Creek (near southern boundary of Bakersfield Commons site, just west of proposed El Toro Viejo)	79	761	64.9	69	71	2	Moderate	111	126
BNSF Alternative									
LT-3: 9300 Windcreek Court (near west boundary of Bakersfield Commons site)	58	89	54.1	57.8	69	11	Severe	1,451	2,500
ST-7: 1109 Harvest Creek (near southern boundary of Bakersfield Commons site, just west of proposed El Toro Viejo)	70	495	64.9	69	71	2	Moderate	326	1,201

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to this issue, the EIR/EIS provides no analysis of potential roadway hazards created by the HST Project. This is clearly a deficiency of the EIR/EIS.

BO032-92

With regard to the technical aspect of this issue, the concrete columns that would be used to support the aerial guideways, depending on their final location, could interfere with driver visibility, thereby creating a roadway hazard. This is a general concern, but it is particularly important with regard to the intersections of the Bakersfield Commons on-site roadways and Brimhall Road as well as along the on-site roadways internal to the Bakersfield Commons site. To the extent that driver visibility is impaired, a significant impact with regard to roadway hazards would occur. To address this potentially significant impact the following mitigation measure is required:

- During the HST Project's engineering design phase, the Authority shall coordinate with the property owner of the Bakersfield Commons site and the City of Bakersfield Department of Public Works to locate the concrete columns that support the aerial guideway in a manner that would not create a roadway hazard at any location within the Bakersfield Commons site, or at any location where the Bakersfield Commons roadways intersect Brimhall Road.

Should the above mitigation measure not be adopted, a new significant impact attributable to the HST Project would occur.

BO032-93

12. HST Project May Result in Undisclosed Impacts With Regard to Stormwater Management Facilities

Stormwater runoff at the Bakersfield Commons site is managed via a series of detention/retention basins that are designed in response to the on-site drainage patterns established for the Bakersfield Commons project. The HST Project could result in potentially significant impacts to the proposed Bakersfield Commons stormwater management system in the following ways:

- The concrete columns that support the aerial guideway system could significantly impact stormwater management facilities located within the Bakersfield Commons site; and

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- HST system facilities could alter the drainage patterns that have been established for the Bakersfield Commons site such that a significant impact to the on-site stormwater management system proposed for the Bakersfield Commons project could occur.

To address these potential significant impacts the following mitigation measure is required:

- During the HST Project's engineering design phase, the Authority shall coordinate with the property owner of the Bakersfield Commons site and the City of Bakersfield Department of Public Works with regard to the following: (1) locating the concrete columns that support the aerial guideway in a manner that would not impact the Bakersfield Commons proposed detention/retention facilities; (2) ensuring that implementation of the HST Project would not alter the drainage patterns established for the Bakersfield Commons project in a manner that would cause an exceedance of the capacity of the Bakersfield Commons stormwater management system at any location within the Bakersfield Commons site; and (3) any facilities constructed by the Authority to address stormwater management for the HST Project shall not have an adverse effect on the locations of buildings or areas proposed for development (e.g., parking areas) within the Bakersfield Commons site as determined by the Bakersfield Commons property owner.

Should the above mitigation measure not be adopted, a new significant impact attributable to the HST Project would occur.

BO032-94

13. EIR/EIS Understates the Impacts of the HST Project Through the Use of Overly Optimistic Assumptions

Whereas the above analyses identify the most critical deficiencies of the EIR/EIS, additional EIR/EIS deficiencies have been identified and are presented in the following bullets.

- The EIR/EIS assumes no impact to solid waste facilities solely on the basis that there are state regulations that require the expansion of landfill capacity. This approach fails to address the current situation regarding current and remaining

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landfill capacities. This is particularly important given the long history associated with the difficulties permitting new landfills or landfill expansions in California.

BO032-95

- The HST Project assumes that since the HST Project only increases statewide population by a few percent that impacts would not be significant. However, a population increase of even a few percent in the context of the State's current population of 37.7 million people constitutes substantial and significant growth on an absolute basis that very likely could result in localized impacts (i.e., a 1 percent increase in Statewide population equates to 377,000 people). Since these impacts are not analyzed in the EIR/EIS, it cannot be determined if the impacts associated with this population growth are significant or not. Even though the EIR/EIS fails to provide any analysis on this point, it is reasonable to conclude that the impacts of this population growth would be more severe in an urbanized vs. rural context. For example, impacts to transportation and other infrastructure systems (e.g., wastewater) would be more severe given existing system constraints in urbanized areas, such as existing levels of traffic congestion.

BO032-96

- The EIR/EIS concludes that impacts to biotic resources are less than significant during construction of the HST Project, "[B]ecause temporary construction sites would be located to avoid habitat of special status species **to the extent possible**" (emphasis added). The use of the phrase "to the extent possible" functionally permits undisclosed significant impacts to biological resources attributable to the HST Project.

BO032-97

- The EIR/EIS erroneously concludes that impacts will occur with regard to the "division and/or disruption of community, economics, and environmental justice populations would be similar for all alternatives ***because the alternatives follow existing transportation corridors***" (emphasis added) (p. 3.19-35). Even a cursory review of the alignment of the alternatives through the City of Bakersfield shows that existing transportation corridors are not always followed. Thus, the basis for the stated conclusion is invalid and as a result it is unknown if significant impacts occur. In addition, concluding that impacts would be similar across the alternatives is yet another example of how the EIR/EIS alternatives are extremely narrowly defined and do not meet the regulatory requirements for an analysis of a reasonable range of alternatives.

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- One of the more blatant examples of the disregard the EIR/EIS shows with regard to the impacts of the HST project on local communities occurs with regard to the HST Project's land use impacts. As an example, the EIR/EIS places the

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burden on the local agency to "fix" the significant impacts of the HST Project on the grounds that the "Authority would work with local governments to amend their plans to reduce the land use conflicts where appropriate" (p. 3.19-39). The same mindset is also reflected in Mitigation Measure CUM-VQ-MM#3 with regard to visual impacts. Such a perspective with regard to the serious and far-reaching impacts of the HST Project is clearly in violation of the letter and intent of CEQA and NEPA.

14. EIR/EIS Analysis of Cumulative Impacts Is Flawed

Section 3.19 of the EIR/EIS presents the analysis of the cumulative impacts of the HST Project. The EIR/EIS states that the cumulative analysis is based on buildout of the general plans in the four-county region (p. 3.19-5) but does not provide information regarding how much or where the growth would occur. Without disclosing this information, the overall validity of the cumulative analysis presented in the EIR/EIS cannot be assessed. On these grounds alone, the cumulative analysis presented in the EIR/EIS is fatally flawed. Further, since buildout of the General Plans in the four-county region would never occur by the time buildout of the HST Project occurs, the cumulative baseline upon which the cumulative analyses are based is artificially inflated. This EIR/EIS deficiency results in an underestimation of the HST Project's contribution to potential cumulative impacts. Without an analysis based on an accurate cumulative baseline it is impossible to determine the true significance of the HST Project's cumulative impacts.

Another deficiency of the cumulative analysis presented in the EIR/EIS is that it fails to recognize the potential for localized cumulative impacts to occur by indicating that the cumulative impacts across the alternatives are minor (p. 3.19-6). This statement also further supports the argument that the alternatives analyzed are very similar to one another and do not reflect a reasonable range of alternatives as required by CEQA. The EIR/EIS cumulative analysis also dismisses the potential for localized impacts because "benefits would be realized at a regional level" (p. 3.19-7). This clear deficiency of the EIR/EIS must be remedied in a recirculated EIR/EIS.

Another deficiency of the EIR/EIS cumulative analysis occurs with regard to the topic of cumulative construction traffic. With regard to this issue, the EIR/EIS cumulative analysis assumes as long as a "minimal level of vehicle flow is allowed" then impacts are acceptable (p. 3.19-6). While this logic may be adequate in rural areas, the level of

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congestion that would occur under this position within the urbanized areas of Bakersfield is likely to be substantial and significant.

In addition, it is important to note that critical cumulative mitigation measures may never occur as the mitigation measures include the language "to the extent feasible" (p. 3.19-15). Thus, as the benefits of the mitigation measures may never occur, significant cumulative impacts would remain.

In closing, the multiple deficiencies in the EIR/EIS cumulative analysis noted above can only be addressed by a substantially expanded cumulative analysis that is recirculated. Only in this manner can the public have the opportunity to review and comment on this particular analysis as well as the other EIR/EIS analyses identified as deficient in this letter in order to comply with the letter and intent of CEQA and NEPA.

15. EIR/EIS Analysis of HST Project Secondary Impacts Inadequate

Implementation of the HST Project requires activities that would have secondary impacts that are not sufficiently analyzed and as a result may cause additional significant impacts that are not disclosed in the EIR/EIS. In the rare case that the EIR/EIS does identify a secondary impact of the HST project, the EIR/EIS summarily dismisses the significance of the potential impacts. For example, the EIR/EIS concludes that interruptions to utility service are acceptable as long as they are of a short duration. It is impossible to conceive of a circumstance when the loss of electrical or water service to a business would be acceptable. Thus, all secondary impacts of the HST Project must be disclosed and mitigated to a less than significant level. Otherwise, a previously undisclosed significant impact would occur, which is also grounds for requiring recirculation of the EIR/EIS.

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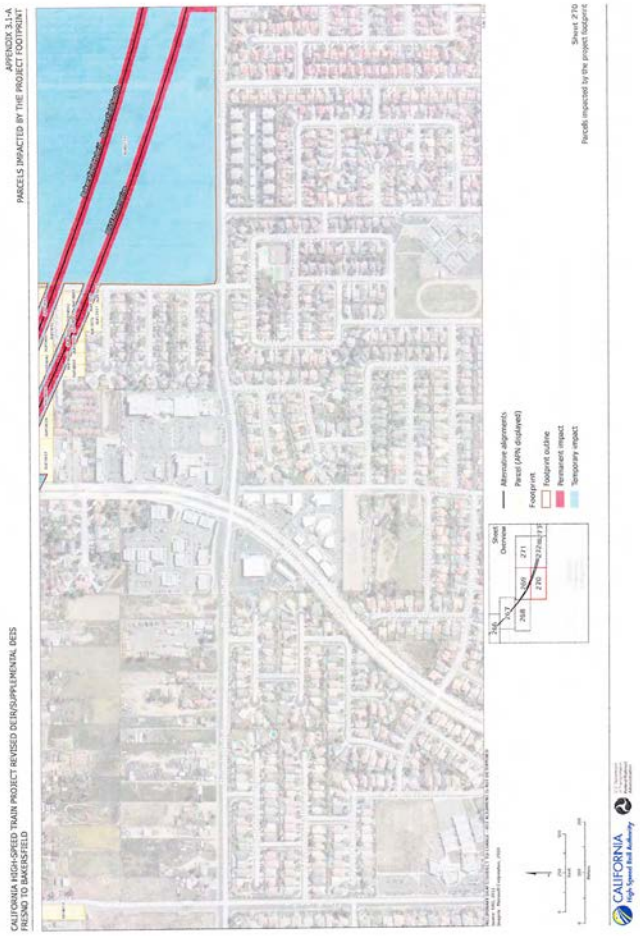
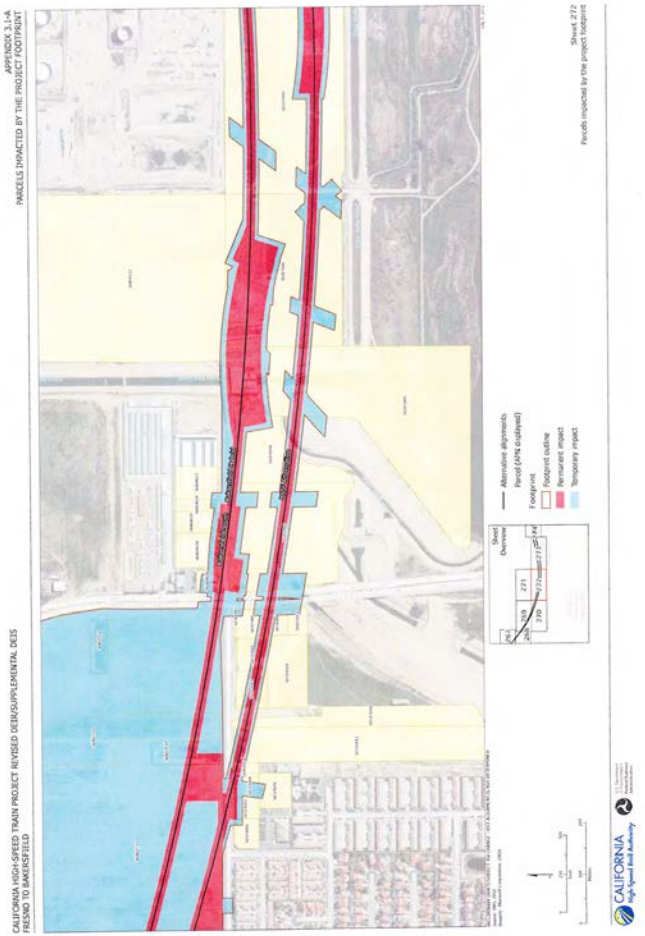
Appendix A



Submission BO032 (George J. Mihlsten, Coffee-Brimhall, LLC (Atty. For) Latham & Watkins, LLP, October 19, 2012) - Continued



Appendix B

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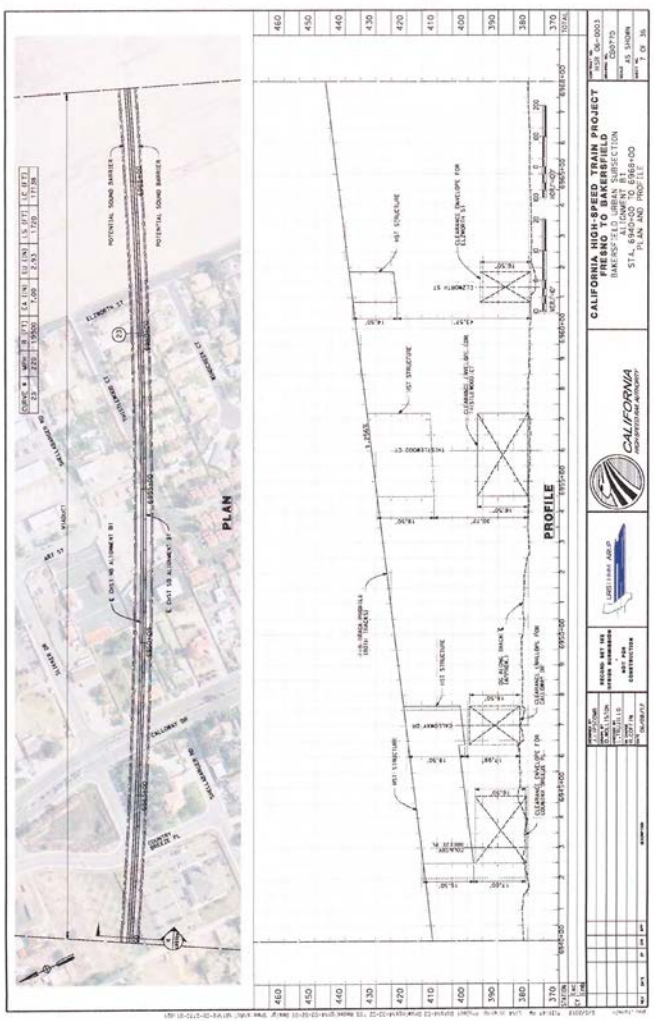

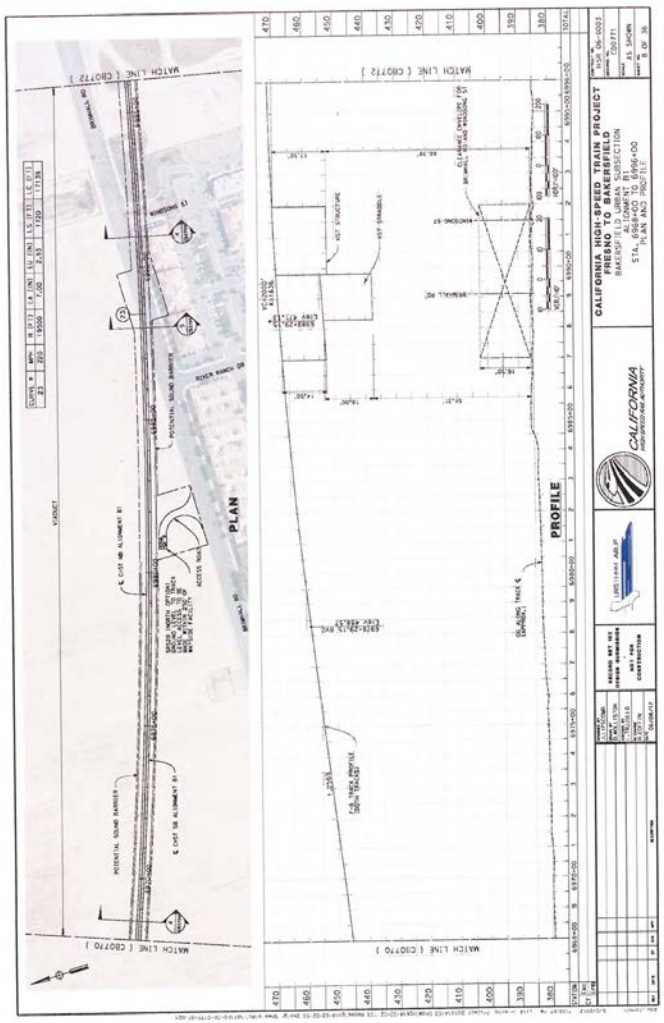

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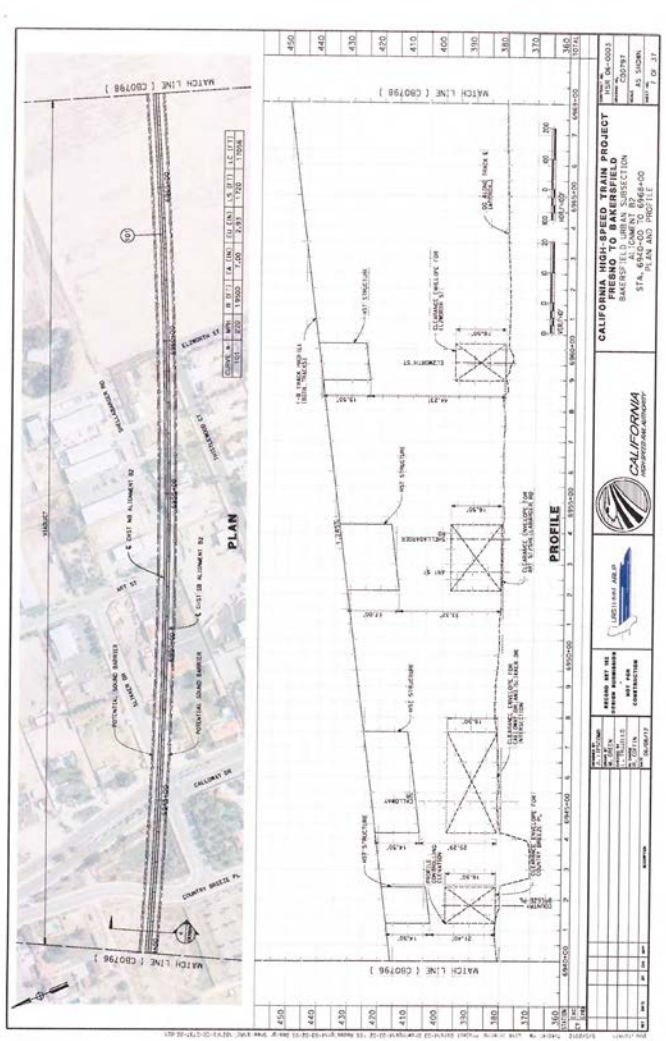

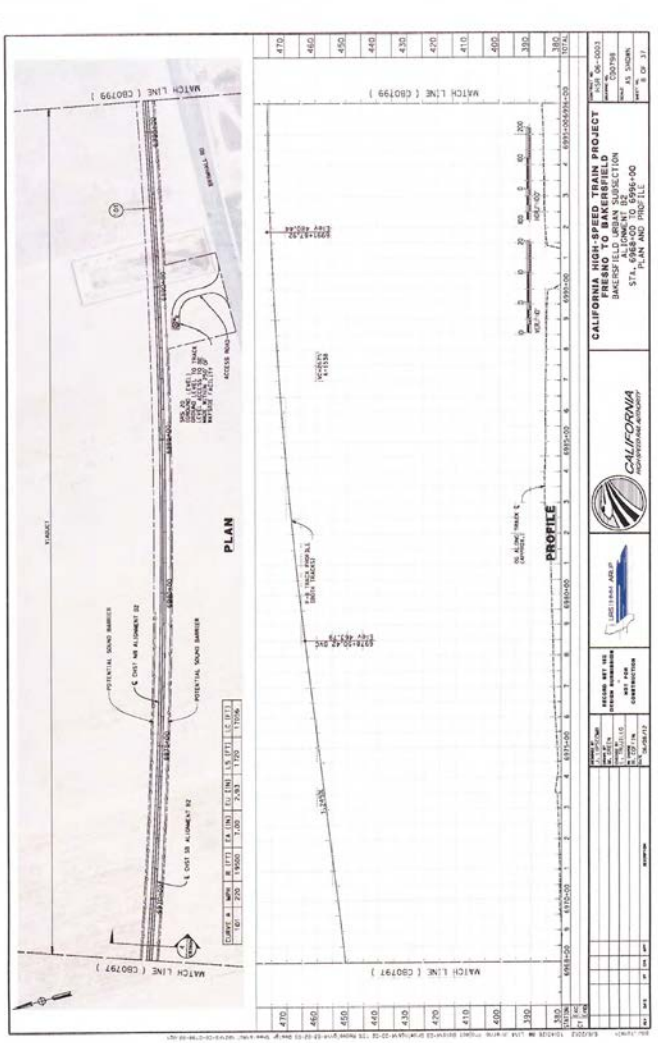

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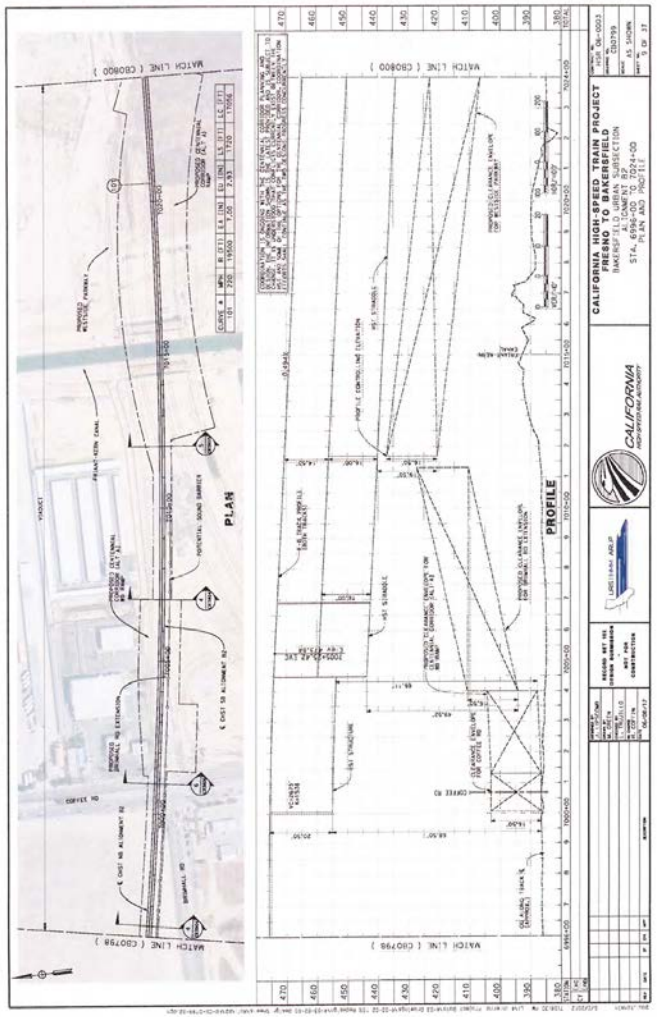
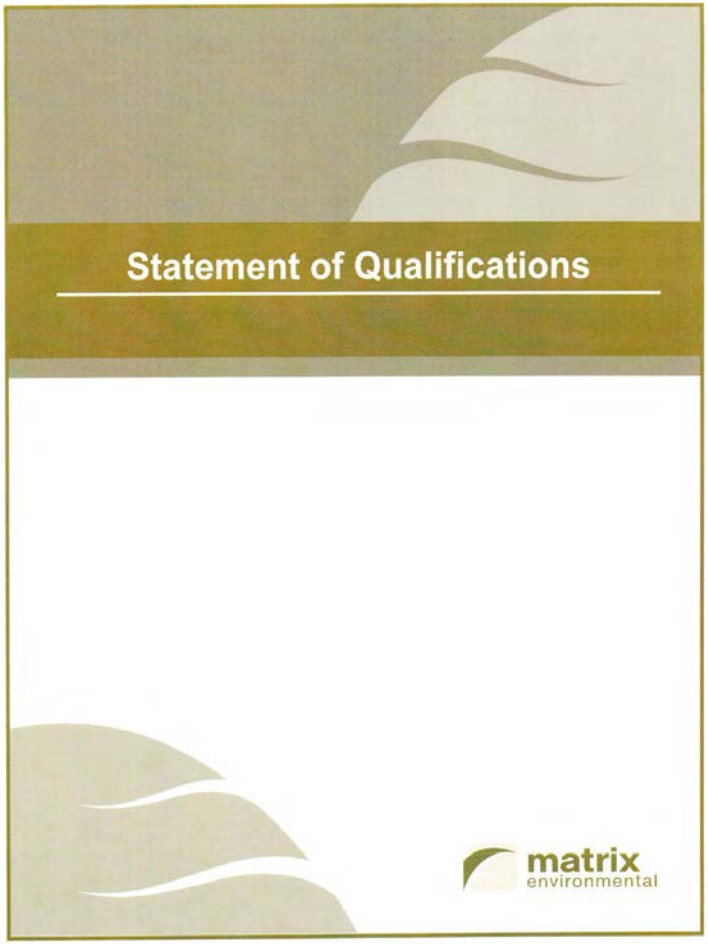


Appendix C

Submission BO032 (George J. Mihlsten, Coffee-Brimhall, LLC (Atty. For) Latham & Watkins, LLP, October 19, 2012) - Continued



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COMPANY PROFILE

FIRM OVERVIEW

Matrix Environmental, a Limited Liability Company founded in 2009, is a specialized environmental consulting firm located in Los Angeles, California. Matrix Environmental is led by Stephanie Eyestone-Jones and Bruce Lackow, recognized leaders in the environmental consulting field who together have over 45 years of environmental consulting experience in preparing legally sound California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) documentation for many of the most high-profile projects in Southern California.

Matrix Environmental was formed with the specific intent of providing a service-oriented environmental firm, with projects led by experienced senior managers who have the unsurpassed ability to efficiently create strategic and solution-oriented environmental documents. With a focus on environmental documentation required under CEQA, Matrix Environmental also offers the following services: air quality and climate change analyses; environmental review management; environmental constraints analyses; land use/zoning analyses; aesthetics/view studies; shade/shadow studies; strategic assistance; project benefit analyses; mitigation monitoring and reporting programs; noise analyses; peer review services, expert witness testimony; and entitlement processing. Our staff is comprised of eight highly experienced planners and an air quality specialist who have extensive experience with each of the issues addressed under CEQA and NEPA, as well as with a variety of project types. The combined reputation and project history of Matrix Environmental's skilled staff, in addition to the firm's strong relationships with businesses specializing in transportation, biological services, cultural resource management, and other technical fields, render Matrix Environmental a leader in the environmental consulting field.

Matrix Environmental's office is located off the I-405 Freeway, near the Los Angeles International Airport and thus is ideally situated to service projects throughout the region. Contact information is as follows:

Matrix Environmental, LLC
6701 Center Drive West, Suite 900
Los Angeles, California 90045
Telephone: (424) 207-5333
Fax: (424) 207-5349

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CORPORATE PHILOSOPHY

Matrix Environmental's mission is to provide project management as well as technical and strategic leadership of the highest quality. We strive to create comprehensive, technically sound, and legally defensible work products that are delivered on schedule, at a reasonable price, and with a high level of client satisfaction and support. Our staff's long-term relationships and repeat business with numerous high-profile clients reflects the extraordinary degree of confidence that the development community has in our management capabilities and work products.

QUALIFICATIONS

Matrix Environmental's in-house capabilities focus on environmental planning and documentation, with a meticulous attention to legal and technical details and procedural requirements. We are intimately familiar with all issues addressed under CEQA and NEPA, as well as other regulatory requirements, including but not limited to aesthetics, views, light and glare, shade/shadow, and related urban design and "walkability" issues; air quality, including greenhouse gas (GHG) analysis, related sustainability issues, and Leadership in Energy and Environmental Design (LEED) criteria and certification; biological resources; historic resources, archaeological resources, and paleontological resources; geology/soils and geotechnical issues; hazards and hazardous materials; hydrology and water quality; land use and planning; noise; population, housing, including affordable housing and relocation issues, and employment; police protection, fire protection, schools, libraries, and parks and recreational facilities; traffic, transportation, and parking; water supply and infrastructure, including coordination of Water Supply Assessments (WSAs), wastewater, solid waste, natural gas, and electricity; environmental justice and community impacts; and alternatives.

Our in-house resources also include air quality services, rooted in the California and Federal Clean Air Acts, enabling us to provide legally sound air quality impact analyses under CEQA and NEPA, Health Risk Assessments (HRAs), stationary source permitting and emissions inventories, and GHG analyses. Matrix Environmental has recently been recommended by the South Coast Air Quality Management District (AQMD) staff to be AQMD's CEQA Air Quality Specialist. Further, as the regulatory environment continues to evolve, particularly in regards to GHGs, sustainability, and green building, our credentialed staff is positioned at the forefront of the analytical scene, possessing a deep comprehension of the complex factors affecting air quality and global climate change. In addition, Matrix Environmental is strengthened by its effective relationships and successful history with other consulting firms specializing in transportation, acoustics, biological services, cultural resource management, geology/geotechnical services, infrastructure planning, and other highly specialized and technical fields. Finally, our experienced support staff offers industry-specific support services coupled with a clear understanding of the expectations, requirements, and time constraints associated with environmental planning, development, and documentation. Our in-house support services include graphics, computerized shade/shadow studies, electronic and printed presentation

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materials, photographic imaging/scanning, word processing, and document production and distribution services.

The extensive technical and support capabilities of our staff offer a high degree of efficiency in our work efforts and a superior quality in all of our work products. Matrix Environmental takes great pride in its unparalleled ability to complete projects in a timely and cost efficient manner. Our collective experience has provided us with the tools to accurately assess and anticipate the time and costs required to effectively complete environmental documentation for every project.

Matrix Environmental's approach to project management combines strong leadership, organization, varied resources, and project control systems. This approach is founded on three main principles: assigning a Project Manager as a primary point of contact who can facilitate information flow within the project team; creating clear goals and objectives for individual project assignments and expressing project requirements in a detailed work plan; and using sensible management systems to deliver high quality work products on time and within budget. Additionally, two key principles that guide operations at Matrix Environmental are those of fiscal responsibility and employee satisfaction/ retention. Matrix Environmental prides itself on ethical business practices.

Matrix Environmental is also known for its ability to communicate and interface with public agency staff, project applicants, responsible and trustee agencies, various interest groups, the general public, and other stakeholders in the development process, based on years of experience and our strategic working relationships.

Several of the projects our staff has worked on and managed have been recognized for their design, ingenuity, and environmental stewardship. Additionally, our experienced staff members are considered leaders in the environmental consulting field who are regularly asked to serve on industry panels, speak at public conferences, conduct peer reviews, or provide expert witness testimony. Matrix Environmental's professional affiliations include membership with various professional planning organizations such as the American Planning Association (APA), the Association of Environmental Professionals (AEP), and the Urban Land Institute (ULI). Members of our staff have additional affiliations with groups such as the U.S. Green Building Council (USGBC) and the Center for Urban Policy Research–Rutgers University.

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PERSONNEL

Our strength at Matrix Environmental is the technical proficiency of our highly experienced and senior staff. In addition to secondary education, our professionals have proven track records in their individual fields of expertise.

Environmental Staff	
Stephanie Eyestone-Jones	President
Bruce Lackow	President
Mark Hagmann	Director of Air Quality
Heidi Mekkelson	Principal Planner
Ashley Rogers	Principal Planner
Julia Baucke	Principal Planner
Laura Rodriquez	Planner
Victor Ortiz	Planner/Air Quality Specialist
Jessica Viramontes	Planner
Zachary Andrews	Associate Planner
Ashley Wright	Assistant Planner

The primary roles of our environmental staff are dictated by position, precise areas of expertise, and project-specific needs. In general terms, these roles are as follows: Presidents—company operations and project oversight and management; Director of Air Quality—project management, air quality analysis and documentation; Principal Planners—project management, environmental analysis, and documentation; Senior Planner and Planner—research and documentation.

In addition, Matrix Environmental offers a highly capable support staff well versed in the needs, requirements, and time constraints associated with environmental planning, development, and documentation.

Support Staff	
Tina Martella	Office Manager
Karen Cramer	Accounting Manager
Michelle Holmes	Publications Manager
John Osako	Publications Supervisor
Jeremy Buck	Graphics Specialist

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PROJECT EXPERIENCE

Matrix Environmental's team has been directly involved in the management and preparation of CEQA and NEPA documentation for an extensive number of public and private sector projects throughout the Southern California region. Our experienced staff has also performed peer reviews, feasibility analyses, strategic planning, environmental constraints evaluations, and project benefit analyses; assisted with entitlement processing, the development of mitigation plans, and the drafting of redevelopment programs, master plans, specific plans, and other regulatory and guidance documents related to land use and development; coordinated and conducted public scoping meetings; and offered expert witness testimony.

CLIENT LIST

Based on extensive experience among the founders and staff of Matrix Environmental, our firm has an expansive client history. The following is a partial list of past and current clients:

- City of Los Angeles
- City of Long Beach
- City of Glendale
- City of Carson
- NBC/Universal
- Playa Capital Company
- The Walt Disney Company
- Westfield, LLC
- University of Southern California
- The J. Paul Getty Trust
- Anschutz Entertainment Group
- The Academy Motion Picture of Arts and Sciences
- The Related Companies
- Autry National Center
- Maguire Thomas Partners
- JMB Realty
- World Oil
- Home Depot
- AREA Property Partners
- The Fifteen Group

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PROJECT HISTORY

Projects overseen by Matrix Environmental and/or our staff include the Playa Vista Project, NBC Universal Evolution Plan, University of Southern California (USC) Specific (Master) Plan, STAPLES Center and L.A. LIVE projects, multiple Westfield projects, Grand Avenue, Douglas Park, Boyle Heights Mixed-Use Community Project, the Autry National Center's Griffith Park Campus Improvements Project, Disney/ABC Studios at The Ranch, Columbia Square Project, The Disneyland Resort, and 10131 Constellation Boulevard High-Rise Residential Project. Additional information regarding our team's most notable current and recent projects includes the following:

Playa Vista Master Plan, Phase I and Village at Playa Vista Projects

Located in the Marina del Rey area of the City of Los Angeles, the Playa Vista Project has involved large-scale phased development of residential, retail, commercial, and recreational uses throughout a 1,100-acre site. This highly controversial project has successfully endured litigation, with political and community issues of concern including the scale of development, traffic/transportation, and compatibility with the Ballona Wetlands. The Master Plan that dates back to the early 1990s included over 13,000 residential units and 7 million square feet. Matrix Environmental recently prepared the Recirculated Sections of a Draft Environmental Impact Report (RS-DEIR) to analyze the potential environmental impacts of the Village at Playa Vista project. The Village at Playa Vista, consisting of 2,600 residential units and 325,000 square feet of commercial uses, would complete development of the property included within the Playa Vista Area D Specific Plan. Over the past 20+ years, staff at Matrix has prepared and managed the documentation for all phases of the Playa Vista Project.

NBC Universal Evolution Plan

Matrix Environmental is preparing an EIR for the Universal City Vision Plan, which sets forth a framework to guide the development of the existing 391-acre Universal Studios property located in the east San Fernando Valley. The EIR analyzes the potential environmental effects of development pursuant to two Specific Plans governing the site: the Universal City Specific Plan, which would guide future development within the portions of the project site located within the City of Los Angeles, and the Universal Studios Specific Plan, which would guide future development within the portion of the project site located within unincorporated Los Angeles County. The current version of the project includes nearly 3,000 residential units and approximately 2.6 million square feet of various types of commercial uses. Matrix staff has been involved with this property for over 15 years in a leadership role managing and preparing various environmental documents.

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The ABC Studios at The Ranch Project

Matrix Environmental is preparing an EIR for The ABC Studios at The Ranch Project. This project will provide for the development of a state-of-the-art studio and associated film and television production facilities in the unincorporated Santa Clarita Valley area of Los Angeles County. Proposed development will be located on approximately 56 acres within the westernmost portion of the 890-acre Golden Oak Ranch. The Proposed Project will provide up to 12 soundstages, production offices, six mills, a warehouse, writers/producers bungalows, a commissary with associated amenities, an administration building, a central utility plant, and an electrical substation. The Proposed Project also includes an option to develop studio office uses in lieu of four soundstages and two mills within the northern portion of the Project site. New off-site utilities will also be constructed to provide for the Project.

USC Development Plan

Matrix Environmental is preparing an EIR for the USC Development Plan that is intended to guide the physical development of the University Park Campus and surrounding area, consistent with the needs of the university through 2030. Specifically, the proposed USC Specific Plan would set forth regulations for new development occurring within three USC Master Plan Subareas. The USC Specific Plan would provide for up to 2,500,000 square feet of academic and University-serving uses; up to 350,000 square feet of retail/commercial uses; and up to 2,135,000 square feet of residential uses providing up to 5,400 student beds in a variety of housing types and configurations plus approximately 250 faculty housing units. The Specific Plan would also provide for a 165,000 square foot hotel and conference center with up to 150 guest rooms, conference and banquet facility areas, a sit down restaurant area, a swimming pool, and other related amenities. In addition, a new University-affiliated K-8 laboratory school and community educational academy may be developed.

Los Angeles Sports and Entertainment District

The Los Angeles Sports and Entertainment District (LASED), currently known as L.A. LIVE, is a mixed-use development that complements and physically surrounds the STAPLES Center in downtown Los Angeles. L.A. LIVE is located on all or portions of six City blocks centered around the intersection of Figueroa and 11th Streets. The original project included the development of 1,800 hotel rooms, 1.1 million square feet of retail/entertainment/restaurant uses (including a 7,000-seat live theater), 300,000 square feet of office uses, a 125,000-square-foot health/sports club, and 800 residential units. This development program was transformed from its initial approvals via its equivalency program (i.e., changes that occurred via ministerial actions by the City) to a development consisting of 1,700 hotel rooms, 790,000 square feet of retail/entertainment/restaurant uses (including a 7,000-seat live theater), 246,000 square feet of office uses, a 120,000-square-foot cinema, and

over 2,100 residential units. Matrix Environmental staff prepared the Draft and Final EIRs for this project, as well as a series of land use equivalency transfer reports and Addendums, and most recently an Addendum to implement the latest round of land use changes to this dynamic urban project.

Grand Avenue

The Grand Avenue Project was proposed for implementation by The Los Angeles Grand Avenue Authority, established through a Joint Exercise of Powers Agreement between the CRA/LA and the County of Los Angeles. The project consisted of two development options: the Project with the County Office Building Option and the Project with Additional Residential Development Option. Under both options, up to 275 hotel rooms were proposed, with a mix of residential units and retail floor area. The maximum total floor area proposed under both options was 3.6 million square feet, which included over 2,000 residential units. In addition, the Grand Avenue Project involved the creation of a revitalized Civic Park that expanded upon the existing Los Angeles Civic Center Mall and streetscape improvements along Grand Avenue between Fifth Street and Cesar E. Chavez.

Westfield Century City

Matrix Environmental recently completed the environmental review process for the New Century Plan at the Westfield Century City Shopping Center. As part of the New Century Plan, existing buildings, anchor stores, and outdoor areas within the Shopping Center will be reconfigured or renovated to provide for new retail and restaurant spaces, along with landscaping and open space amenities. Upon completion, an addition of an estimated 358,881 square feet of Shopping Center space, 106,523 square feet of new office uses and approximately 262 multi-family residential apartments or condominium units will be provided within the project site. The proposed improvements will promote the future vitality of the Shopping Center and enhance Century City as a walkable community. Matrix Environmental's staff has also prepared and managed CEQA documentation for multiple other Westfield shopping centers throughout Southern California.

Douglas Park Rezone Project

Matrix Environmental staff prepared the original EIR and recently prepared an EIR Addendum for the Douglas Park Rezone Project (formerly the PacifiCenter @ Long Beach), a 261-acre site located within The Boeing Company's C-1 aircraft production facility in the City of Long Beach, adjacent to the Long Beach Airport. The original project consisted of 1,400 residential units, up to 3.3 million square feet of new office, retail, research and development, and light industrial uses, plus 400 hotel rooms and the potential continuation of limited aviation-related uses. Having undergone changes in response to market conditions, the revised project proposed by Boeing Realty Corporation involves the development of 3.75 million square feet of

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commercial/light industrial uses, 250,000 square feet of retail uses, a 400-room hotel, and the potential continuation of limited aviation-related uses, plus 10 acres of open space areas, bike paths, pedestrian connections, and landscape buffers. Issues of concern included noise and health risk concerns relating to the proximity of the Airport, land use compatibility with the surrounding low density neighborhoods, economic feasibility, the creation of employment opportunities, and traffic congestion.

Getty Villa Master Plan

The Getty Villa Master Plan involved renovation and expansion of the J. Paul Getty Museum near Malibu. Considered a controversial project in light of its canyon setting and constrained physical access, important issues addressed in the Environmental Impact Report included site access, traffic and noise associated with a proposed theater, construction impacts, and aesthetics. The environmental documentation successfully withstood litigation, and the new Getty Villa opened in January 2006. In addition to completing the original EIR, Matrix Environmental staff completed an Addendum to the EIR in 2009.

Griffith Park Campus Improvements Project

Matrix Environmental recently prepared an EIR for the renovation and modernization of portions of the Autry National Center's Griffith Park Campus in the City of Los Angeles. The key project features include increasing the building space within the Campus by 129,000 square feet, renovating the exterior landscape areas, and enhancing vehicle and pedestrian circulation and parking amenities, thus increasing gallery and presentation space, and enhancing the Campus as a cultural resource and a premier interpretive site for the exhibitions of the American West.

matrix environmental

REFERENCES

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Appendix D

matrix environmental

BRUCE LACKOW

President

Bruce Lackow has more than 20 years of experience in environmental consulting. He is adept at preparing all forms of California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) documentation and has extensive experience in successfully completing the requisite documentation for highly complex and often controversial, large scale projects. Mr. Lackow provides services to both public and private sectors as well as guidance on the determination of appropriate analytical and research methodologies. Known for both his exacting standards and extensive experience, Mr. Lackow is frequently retained by public and private sector clients to review the technical and regulatory adequacy of Environmental Impact Reports (EIRs) and Environmental Impact Statements (EISs) for developments of regional importance throughout Southern California. While exhibiting comprehensive knowledge of environmental issues, Mr. Lackow has substantial specialized expertise in issues affecting the urban environment, such as land use, visual resources, transportation, air quality, noise, and demographics.

EDUCATION B.S. (Magna Cum Laude) in Urban & Regional Planning - California Polytechnic University, Pomona

PROFESSIONAL EXPERIENCE

- 10131 Constellation Boulevard High-Rise Residential Project (EIR)
- Alameda Apartments (Addendum)
- Burbank Home Depot Store (EIR)
- Camp Bloomfield Renovation Project (EIR)
- Carson Marketplace (EIR)
- Carson Metro 2000 (EIR)
- Citrus Plaza/San Bernardino IVDA (EIR)
- Lincoln Place (EIR)
- Los Angeles Sports & Entertainment District (EIR & Addendums)
- Playa Vista Phase I/Master Plan (EIR)
- Santa Monica-UCLA Medical Center (EIR)
- Sunset Millennium (EIR)
- The Grand Avenue Project (EIR)
- Universal City Specific Plan (EIR)
- USC Galen Center (EIR)
- USC Health Sciences Campus (EIR)
- Villa Marina (EIR)
- Village at Playa Vista (EIR)
- Alexan Marina (Initial Study/Mitigated Negative Declaration)
- Alexan Universal (Initial Study/Mitigated Negative Declaration)
- Avalon Wilshire Mixed Use Development (Initial Study/Mitigated Negative Declaration)
- Playa Vista Entertainment, Media and Technology District (Addendum/MND)
- Santa Monica-UCLA Medical Center (Environmental Assessment)
- The Disneyland Resort (Addendum)
- USC 3434 S. Grand Avenue Project (Initial Study/Mitigated Negative Declaration)
- White Memorial Hospital (Environmental Assessment)

PROFESSIONAL AFFILIATIONS Center for Urban Policy Research-Rutgers University, New Brunswick, New Jersey

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MARK HAGMANN, P.E.
Director of Air Quality

Mark Hagmann has 15 years of technical and supervisory experience related to the preparation of air quality technical studies for toxic air contaminants, criteria pollutants, and greenhouse gases (GHG). He has extensive knowledge of the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) regulatory process and the rules and regulations established by the South Coast Air Quality Management District. He has prepared Air Quality Impact Assessments (AQIA) and Health Risk Assessments (HRAs) required under various state and federal environmental regulations including NEPA and CEQA, RMPP, Cal ARP, AB2588, and Proposition 65. He has also conducted GHG analyses consistent with Draft SCAQMD guidance. Mr. Hagmann has extensive expertise with all applicable modeling tools including URBEMIS, EMFAC, ISC, HARP, Cal3QHC, Caline4, and EDMS. Mr. Hagmann was also part of the SCAQMD working group that developed localized significance thresholds and the methodology for analysis of localized impacts for CEQA documentation.

EDUCATION

Graduate Study, Environmental Engineering, University of Central Florida, Design of Air Pollution Controls and Atmospheric Dispersion, 1995.

B.S., Environmental Engineering, University of Florida, 1994.

PROFESSIONAL EXPERIENCE

10131 Constellation Boulevard High-Rise Residential Project (EIR)
Carson Marketplace (EIR)
I-405/Avalon Boulevard Interchange (IS/EA and Conformity Determination)
Chula Vista Eastern Urban Center Sectional Planning Area EIR
Los Angeles Sports & Entertainment District (EIR)
Village at Playa Vista (EIR)
Sunset Millennium (EIR)
The Grand Avenue Project (EIR)
Douglas Park Project (EIR and Addendum)
New Century Plan at Westfield Century City (EIR)
Westfield Santa Anita (EIR)
Villa Marina (EIR)
Mammoth Lakes General Plan (EIR)
Big Bear Landfill (EIR)
Gregory Canyon Landfill EIR
Remedial Action Plan for Ascon Landfill (EIR)
Getty Villa Master Plan (EIR)
USC Campus Center Project (MND)
USC Galen Center (EIR)
USC Health Sciences Campus (EIR)
LAX South Airfield Project (EIR/EIS)
LAX Tom Bradley International Terminal Project (MND)
Academy Museum of Motion Pictures (EIR)
Harvard Westlake Middle School (EIR)
Buckley School Enhancement Plan (EIR)
Aspire Charter School (EIR)

PROFESSIONAL AFFILIATIONS

Registered Professional Engineer (P.E.), State of California, #C60002

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BO032-1

Refer to Standard Response FB-Response-GENERAL-01, FB-Response-GENERAL-02, FB-Response-GENERAL-20, FB-Response-GENERAL-21, FB-Response-GENERAL-22.

The Authority and FRA disagree with the conclusions of this comment regarding compliance of the Revised DEIR/Supplemental DEIS with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). The evidence refuting the conclusions of this comment are provided below in the responses to the specific comments provided in this letter.

BO032-2

Refer to Standard Response FB-Response-GENERAL-01.

BO032-3

Refer to Standard Response FB-Response-GENERAL-01.

BO032-4

Refer to Standard Response FB-Response-GENERAL-01.

BO032-5

Refer to Standard Response FB-Response-GENERAL-02, FB-Response-GENERAL-01.

The project EIR/EIS for the Fresno to Bakersfield Section relies on information from the 2005 Statewide Program EIR/EIS for the California HST System (Authority and FRA 2005). The Statewide Program EIR/EIS considered alternatives on Interstate 5 (I-5), State Route (SR) 99, and the BNSF Railway (BNSF) corridor. The Record of Decision for the Statewide Program EIR/EIS rejected those routes and selected the BNSF corridor as the Preferred Alternative for the Fresno to Bakersfield Section. Further engineering and environmental studies within the broad BNSF corridor have resulted in practicable alternatives that meet most or all project objectives, are potentially feasible, and would result in certain environmental impact reductions relative to each other. Accordingly, the project EIR/EIS for the Fresno to Bakersfield Section focuses on alternative alignments along the general BNSF corridor. The I-5 corridor was again

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considered during the environmental review of the Fresno to Bakersfield Section (see Section 2.3.2, Range of Potential Alternatives Considered and Findings, of the Final EIR/EIS), but was eliminated from further consideration, as described in Standard Response FB-Response-GENERAL-02.

The purpose of project alternatives is to minimize or avoid impacts. In refining the BNSF corridor to avoid impacts where possible, the Authority is considering three alternative Downtown Bakersfield alignments and station locations. Each alternative has a different set of impacts and avoids a different set of sensitive properties. However, given the constrained physical area available in which to site the HST alignment in a developed urban area (keeping in mind the speed and alignment considerations for HST systems), it is not feasible to avoid all effects, and an alternative that avoids an impact for one resource may affect another resource. The purpose of an EIR is to analyze and document the environmental impacts of a project. The fact that a project alternative would result in environmental impacts is not a violation of the California Environmental Quality Act (CEQA).

BO032-6

Refer to Standard Response FB-Response-GENERAL-01.

Since 2000, the Authority and FRA have been using a tiered environmental review process for the proposed HST System. The “tiering” of environmental documents means addressing a broad, general program in an initial “programmatic” or first-tier environmental document, then analyzing the complete details of related projects in subsequent “project” or second-tier documents. The environmental documents for individual, second-tier projects may incorporate by reference analyses already completed in the first-tier document to address many large-scale, non-site-specific resources and issues while focusing the second-tier analysis on site-specific effects not previously considered.

The Statewide Program EIR/EIS provided a programmatic analysis of implementing the HST System across the state, from Sacramento in the north to San Diego in the south and the San Francisco Bay Area to the west. At the conclusion of that first-tier environmental process, the Authority and FRA selected preferred alignments and station

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locations for most of the Statewide HST System to analyze further in second-tier EIR/EIS documents.

The Revised DEIR/Supplemental DEIS is a second-tier project-level EIR/EIS evaluating nine alignment alternatives, further refining the preferred alignment identified in the first-tier environmental process. The analysis in the Revised DEIR/Supplemental DEIS is based on updated ridership projections, fares and costs of the system, and reflects facts related to funding at the time of publication of the Revised DEIR/Supplemental DEIS. Likewise, the analysis of job creation, air quality and GHG emissions, and VMT reductions are based on the project as defined in the Revised DEIR/Supplemental DEIS and the impact analysis current at the time of the publication of the Revised DEIR/Supplemental DEIS. Therefore, the analysis does not rely on outdated information and represents the impacts of the project accurately.

The RDEIR/SEIS has undertaken updated studies in the areas noted in the comment. Information available since certification of the 2005 Statewide Program EIR/EIS has likewise been incorporated into the environmental analysis. The refinements to the project description are likewise are reflected in the analyses and conclusions contained there and in the Final EIR/EIS.

BO032-7

Refer to Standard Response FB-Response-GENERAL-08, FB-Response-LU-03.

The Revised DEIR/Supplemental DEIS properly tiers from the program documents by going from the more general to the more specific and by complying with the procedures set forth in CEQA Guidelines Section 15152. The Revised DEIR/Supplemental DEIS is tiering by considering the broad policy decisions previously reached about the system (e.g., electric propulsion with steel wheels on steel rails) that are based on the program EIRs as the starting point for a more detailed analysis of the impacts of implementing the HST System from Fresno to Bakersfield, and using the previous program documents as reference documents for the analysis. The Revised DEIR/Supplemental DEIS is also tiering by relying on the analysis in the previous program EIR/EISs that address the impacts of the full 800-mile system and cumulative impacts of the system as a whole. The Revised DEIR/Supplemental DEIS describes the tiered process and indicates

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where both the program documents and the decision documents are to be found (see Revised DEIR/Supplemental DEIS, Section S.2 and Section 2.0, text box). This complies with CEQA Guidelines Section 15152, especially subdivision (g), which governs tiering.

BO032-8

Refer to Standard Response FB-Response-GENERAL-01, FB-Response-GENERAL-20.

BO032-9

Refer to Standard Response FB-Response-GENERAL-01, FB-Response-GENERAL-20.

BO032-10

Refer to Standard Response FB-Response-GENERAL-13, FB-Response-GENERAL-17.

BO032-11

Refer to Standard Response FB-Response-GENERAL-22, FB-Response-GENERAL-17.

BO032-12

Refer to Standard Response FB-Response-GENERAL-01, FB-Response-GENERAL-13, FB-Response-GENERAL-17, FB-Response-GENERAL-20.

BO032-13

Refer to Standard Response FB-Response-GENERAL-01.

The project is described in detail in Chapter 2, Alternatives, of the Final EIR/EIS. Consistent with National Environmental Policy Act (NEPA) practice, the various project alternatives are described in equal detail in Chapter 3, Affected Environment, Environmental Consequences, and Mitigation Measures, and Chapter 4, Section 4(f)/6(f) Evaluation, of the Final EIR/EIS.

BO032-14

Refer to Standard Response FB-Response-GENERAL-21.

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The project description does not violate either the California Environmental Quality Act (CEQA) or the National Environmental Policy Act (NEPA). As a joint document, the EIR/EIS combines the requirements of both laws. In this case, that combining of both laws has meant examining the project alternatives at an equal level of detail and identifying the preferred alternative in the Final EIR/EIS rather than in the Draft EIR/EIS. Both of these approaches follow standard NEPA practice (see, for example, 64 Federal Register [FR] 101, Page 28545, sections 14[l] and 14[n]) and neither is prohibited by CEQA.

Section 2.3.3, Summary of Design Features for Alternatives Being Carried Forward, of the Final EIR/EIS describes the project that is being carried forward for consideration in Figure 2-21. This figure illustrates the alignment and the alternative bypasses. Additional detail is provided for each of the stations and station alternatives (see Figures 2-35, 2-38, 2-39, 2-40, 2-42, 2-43, and 2-44, for example) as well as for the alternative HMF locations. Although there are a number of alternatives, it is clear throughout the various versions of the document that the Authority and FRA will select one route made up of clearly delineated subsections between Fresno and Bakersfield.

BO032-15

Refer to Standard Response FB-Response-GENERAL-02.

The Authority disagrees with the characterization in this comment. The alternatives selection process, as described in Section 2.3.1, HST Project-Level Alternatives Development Process, of the Final EIR/EIS, addresses the selection criteria set out in California Environmental Quality Act (CEQA) Guidelines Section 15126.6 and cited by the commenter. The alternatives carried forward for analysis are described in Section 2.4, Alignment, Station, and Heavy Maintenance Facility Alternatives Evaluated in this Project EIR/EIS.

BO032-16

Refer to Standard Response FB-Response-GENERAL-25.

The project EIR/EIS for the Fresno to Bakersfield Section relies on information from the 2005 Statewide Program EIR/EIS for the California HST System (Authority and FRA

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2005). The Statewide program EIR/EIS considered alternatives on Interstate 5 (I-5), State Route (SR) 99, and the BNSF Railway (BNSF) corridor. The Record of Decision for the Statewide Program EIR/EIS rejected those routes and selected the BNSF corridor as the Preferred Alternative for the Fresno to Bakersfield Section. Further engineering and environmental studies within the broad BNSF corridor have resulted in practicable alternatives that meet most or all project objectives, are potentially feasible, and would result in certain environmental impact reductions relative to each other. Accordingly, the project EIR/EIS for the Fresno to Bakersfield Section focuses on alternative alignments along the general BNSF corridor. The I-5 corridor was again considered during the environmental review for the Fresno to Bakersfield Section (see Section 2.3.2, Range of Potential Alternatives Considered and Findings, of the the Final EIR/EIS), but was eliminated from further consideration, as described in Standard Response FB-Response-GENERAL-02.

The purpose of project alternatives is to minimize or avoid impacts. The Authority is considering three alternative Downtown Bakersfield alignments and station locations. Each alternative has a different set of impacts and avoids a different set of sensitive properties. However, given the constrained physical area available in which to site the HST alignment in a developed urban area (keeping in mind the speed and alignment considerations for HST systems), it is not feasible to avoid all effects, and an alternative that avoids impacts on one resource may affect another resource. The purpose of an EIR is to analyze and document the environmental impacts of a project. The fact that a project alternative will result in environmental impacts is not a violation of the California Environmental Quality Act (CEQA).

The effects of the three Bakersfield alternatives can be summarized as follows. The BNSF Alternative would displace six religious facilities, the Bakersfield High School Industrial Arts building, the Mercado Latino Tianguis, and 119 homes in the eastern portion of the city. In contrast to the corresponding segment of the BNSF Alternative, the Bakersfield South Alternative would not affect the Bakersfield High School campus or the Mercado Latino Tianguis; however, this alternative would displace five religious facilities, the Bethel Christian School, and 146 homes in east Bakersfield. The Bakersfield Hybrid Alternative would not affect the Bakersfield High School campus or the Bethel Christian School; however, this alternative would displace one religious

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facility, the Mercado Latino Tianguis, the Bakersfield Homeless Shelter, and 57 homes in east Bakersfield.

The station locations are designed primarily to tie into the existing transportation network. A Downtown Bakersfield Station would adjoin the existing Amtrak station, with connections to Golden Empire Transit bus service. Also, the Downtown Bakersfield Station location was pursued at the earlier recommendation of the City of Bakersfield, Kern County, and the
Kern Council of Governments.

Given the selection of the BNSF corridor as the Preferred Alternative in the 2005 Record of Decision, the physical and design limitations of locating the train within or near the BNSF line to minimize effects on adjoining properties, continuation of the HST System eastward to Palmdale via Tehachapi along this line, and the intermodal connections available in Downtown Bakersfield, selecting alternative routes and stations in Bakersfield that are in close proximity to one another (with varying impacts on sensitive properties) is a reasonable approach.

Because the Authority conducted analysis of alternative alignments that follow SR 99/the Union Pacific Railroad (UPRR) and the I-5 corridor and determined that these alternatives were not practicable, they were not carried forward in the EIR/EIS. Neither CEQA nor the National Environmental Policy Act (NEPA) requires an environmental document to analyze alternatives that are not practicable to implement.

The procedural requirements for NEPA and CEQA were followed during the environmental review for the Fresno to Bakersfield Section of the HST System. As discussed in Section 2.3.1, HST Project-Level Alternatives Development Process, of the Final EIR/EIS, the Authority implemented an alternatives analysis process to identify the full range of reasonable alternatives for the project, as required under Title 14 California Code of Regulations (CCR) Section 15126.6 and title 40 code of Federal Regulations (CFR) Section 1502.15(a). This range of alternatives was analyzed in the EIR/EIS.

BO032-17

Refer to Standard Response FB-Response-GENERAL-02, FB-Response-GENERAL-25.

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"Section 1502.14(e) [40 Code of Federal Regulations (CFR) 1502.14(e)] requires the section of the EIS on alternatives to 'identify the agency's preferred alternative if one or more exists, in the draft statement, and identify such alternative in the final statement . . ..' This means that if the agency has a preferred alternative at the Draft EIS stage, that alternative must be labeled or identified as such in the Draft EIS. If the responsible federal official in fact has no preferred alternative at the Draft EIS stage, a preferred alternative need not be identified there. By the time the Final EIS is filed, Section 1502.14(e) presumes the existence of a preferred alternative and requires its identification in the Final EIS 'unless another law prohibits the expression of such a preference.'" (CEQ n.d. [http://ceq.hss.doe.gov/nepa/regs/40/1-10.HTM#4])

Neither the Authority nor FRA had selected a "Proposed Project" under the California Environmental Quality Act (CEQA) or a "Preferred Alternative" under the National Environmental Policy Act (NEPA) at the time the Draft EIR/EIS or the Revised DEIR/Supplemental DEIS was circulated. As required by NEPA, all alternatives carried through the Draft EIR/EIS and the Revised DEIR/Supplemental DEIS were described in sufficient detail to evaluate the potential impacts of each alternative.

The 2005 Record of Decision, based on the 2005 Statewide Program EIR/EIS (Authority and FRA 2005; see also Section 1.5, Tiering of Program EIR/EIS Documents, in the Final EIR/EIS) selected the BNSF Railway (BNSF) route as the Preferred Alternative for the HST System between Fresno and Bakersfield. Therefore, the project EIR/EIS for the Fresno to Bakersfield Section focuses on alternative alignments along the general BNSF corridor. The Bakersfield Station alternatives are in close proximity to one another because proximity to the existing Bakersfield Amtrak station would meet the objective of providing convenient intermodal connections for travelers.

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Refer to Standard Response FB-Response-GENERAL-02.

"Section 1502.14(e) [40 Code of Federal Regulations (CFR) 1502.14(e)] requires the section of the EIS on alternatives to 'identify the agency's preferred alternative if one or more exists, in the draft statement, and identify such alternative in the final statement . .

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..' This means that if the agency has a preferred alternative at the Draft EIS stage, that alternative must be labeled or identified as such in the Draft EIS. If the responsible federal official in fact has no preferred alternative at the Draft EIS stage, a preferred alternative need not be identified there. By the time the Final EIS is filed, Section 1502.14(e) presumes the existence of a preferred alternative and requires its identification in the Final EIS 'unless another law prohibits the expression of such a preference.'" (CEQ n.d. [http://ceq.hss.doe.gov/nepa/regs/40/1-10.HTM#4])

Neither the Authority nor FRA had selected a "Proposed Project" under the California Environmental Quality Act (CEQA) or a "Preferred Alternative" under the National Environmental Policy Act (NEPA) at the time the Draft EIR/EIS or the Revised DEIR/Supplemental DEIS was circulated. As required by NEPA, all alternatives carried through the Draft EIR/EIS and the Revised DEIR/Supplemental DEIS were described in sufficient detail to evaluate the potential impacts of each alternative.

The 2005 Record of Decision, based on the 2005 Statewide Program EIR/EIS (Authority and FRA 2005; see also Section 1.5, Tiering of Program EIR/EIS Documents, in the Final EIR/EIS) selected the BNSF Railway (BNSF) route as the Preferred Alternative for the HST System between Fresno and Bakersfield. Therefore, the project EIR/EIS for the Fresno to Bakersfield Section focuses on alternative alignments along the general BNSF corridor. The Bakersfield Station alternatives are in close proximity to one another because proximity to the existing Bakersfield Amtrak station would meet the objective of providing convenient intermodal connections for travelers.

As described in Section 1.5, Tiering of Program EIR/EIS Documents, of the Final EIR/EIS, in the 2005 Statewide Program EIR/EIS decision document (Authority and FRA 2005), the Authority and FRA selected the BNSF Railway (BNSF) route as the Preferred Alternative for the HST System between Fresno and Bakersfield . Therefore, the project EIR/EIS for the Fresno to Bakersfield Section focuses on alternative alignments along the general BNSF corridor.

The alternatives selection process, as described in Section 2.3.1, HST Project-Level Alternatives Development Process, of the Final EIR/EIS, addresses the selection criteria set out in the FRA NEPA guidance (64 Federal Register [FR] 101, page 28545, sections

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10[]) and 14[l]) and the Council on Environmental Quality (CEQ) NEPA guidelines. The alternatives carried forward for analysis are described in Section 2.4, Alignment, Station, and Heavy Maintenance Facility Alternatives Evaluated in this Project EIR/EIS.

BO032-19

Refer to Standard Response FB-Response-GENERAL-02.

The alternatives do indeed avoid or lessen project impacts, contrary to the commenter's assertion. For example, the Corcoran and Wasco-Shafter Bypass alternatives have the express purpose of avoiding noise and social impacts within those cities. Similarly, the three downtown Bakersfield alternatives have differing levels of impacts on structures and communities. There is no requirement that an alternative lessen or avoid all impacts of a project. Accordingly, the range of alternatives analyzed in the project EIR/EIS offers trade-offs: a given alternative may reduce some impacts, but not others.
The alternatives are not "merely ... variations on the design of the project...." The engineering demands of an HST project designed to operate at speeds of 220 miles per hour result in substantial differences in the locations of bypass alignments relative to the BNSF Alternative and in the case of the two Hanford alternatives. These alternatives have substantial differences in their locations and impacts. The three Bakersfield alternatives are in proximity to one another because they are in a transportation corridor that is constrained by adjoining development. Minimizing impacts dictates that the alternatives remain within or as close to that corridor as possible. Nonetheless, as discussed in the impact sections, they have different impacts on adjoining homes, businesses, Bakersfield High School, and churches (see Section 3.12, Socioeconomics, Communities, and Environmental Justice, of the Final EIR/EIS). Variations in design, on the other hand, would be design differences such as use of slab rather than ballast construction or changing the height of overcrossings.

The alternatives are examined at an equal level of detail, ensuring that they are thoroughly analyzed. This common level of analysis is a higher standard of detail than would be typical of an EIR prepared only to meet the California Environmental Quality Act (CEQA), which would examine the project alternatives at a lesser level of detail than the project itself.

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BO032-20

Refer to Standard Response FB-Response-GENERAL-02, FB-Response-GENERAL-10.

No violation of either CEQA or NEPA has taken place. The EIR/EIS complies with the requirements of both laws.

Environmental impacts are presented in Chapter 3 of the Fresno to Bakersfield Section EIR/EIS. The analysis allows for comparison of impacts by alternative. With the various alternative alignments considered for the project, there are theoretically a total of 72 ways for a single alignment to run from Fresno to Bakersfield. In reality, these alternatives are choices between two or three locations of a subsection of the alignment or a station location. Providing an individual analysis of all 72 alternatives would have made the document unreadable. In order to provide information to compare alternatives in as concise a format as possible, the impacts of a single alternative from Fresno to Bakersfield, termed the BNSF Alternative, was described first. This was followed by a description of impacts of each individual alternative segment (e.g., Hanford West Bypass, Wasco-Shater Bypass, and Allensworth Bypass) and a comparison of the difference in impacts between that alternative segment and the corresponding segment of the BNSF Alternative. In this way, a reader can quickly understand the implications of taking either the BNSF Alternative or one of the alternative segments for the particular environmental topic being evaluated. (See e.g., California Oak Foundation v. Regents of University of California (2010) 188 Call.App.4th 227, 274-275 [upholding range of “component” alternatives in an EIR.])

The Authority and FRA have followed the procedural and substantive requirements of NEPA and CEQA. Examining a range of alternatives in the Draft EIR/EIS and describing the preferred alternative (or project) in the Final EIR/EIS conforms to common NEPA practice and is specifically authorized under the FRA's NEPA guidance (see 64 FR 101, page 28545, section 14(l) ["draft EIS may and the final EIS shall identify which alternative is the proposed action"]). There is no CEQA prohibition on using this approach in a joint NEPA-CEQA environmental document. No factual information has been provided in these comments to indicate that the procedures and requirements of NEPA and CEQA were not followed in the environmental review process for the Fresno to Bakersfield HST Section.

BO032-21

Refer to Standard Response FB-Response-GENERAL-10.

The procedural requirements for the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) were followed during the environmental review of the Fresno to Bakersfield Section of the HST System.

The 2005 Record of Decision, based on the 2005 Statewide Program EIR/EIS (Authority and FRA 205; see also Section 1.5, Tiering of Program EIR/EIS Documents, of the Final EIR/EIS) selected the BNSF Railway (BNSF) route as the preferred alternative for the HST System between Fresno and Bakersfield. Therefore, the project EIR/EIS for the Fresno to Bakersfield Section focuses on alternative alignments along the general BNSF corridor. As this corridor enters metropolitan Bakersfield, the choice of alternative alignments becomes constrained if they are to minimize impacts on adjoining land uses. The alignments with the least impacts are those within or closest to the BNSF corridor. However, design considerations (including but not limited to distance from freight operations and speed into the stations) do not allow the project to remain within that corridor.

As discussed in Section 2.3.1, HST Project-Level Alternatives Development Process, of the Final EIR/EIS, the Authority implemented an alternatives analysis process to identify the full range of reasonable alternatives for the project, as required under Title 14 California Code of Regulations (CCR) Section 15126.6 and Title 40 Code of Federal Regulations (CFR) Section 1502.15(a). This range of alternatives was analyzed in the EIR/EIS.

The purpose of project alternatives is to minimize or avoid impacts. For the Fresno to Bakersfield Section of the HST System, alternatives were developed to reduce or avoid the impacts associated with the BNSF Alternative. Three alignments with differing impacts were designed within a corridor in or adjoining the BNSF line. Here is a summary of the distinctions between the alternatives. In Bakersfield, the BNSF Alternative would displace six religious facilities, the Bakersfield High School Industrial Arts building, the Mercado Latino Tianguis, and 119 homes in the eastern portion of the city. In contrast to the corresponding segment of the BNSF Alternative, the Bakersfield

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South Alternative would not affect the Bakersfield High School campus or the Mercado Latino Tianguis. However, this alternative would displace five religious facilities, the Bethel Christian School, and 146 homes in east Bakersfield. The Bakersfield Hybrid Alternative would not affect the Bakersfield High School campus or the Bethel Christian School. However, this alternative would displace one religious facility, the Mercado Latino Tianguis, the Bakersfield Homeless Shelter, and 57 homes in east Bakersfield.

BO032-22

Refer to Standard Response FB-Response-GENERAL-02, FB-Response-GENERAL-25.

Proposition 1A mandates that the project follow existing transportation corridors to the extent possible. All alternatives through the San Joaquin Valley would impact agricultural land and sensitive habitats, including alternative alignments along Interstate 5 (I-5) and State Route (SR) 99. For example, in the screening analysis conducted for the Fresno to Bakersfield Section, the alternatives along SR 99 had comparable impacts to Important Farmland as the alternatives along the BNSF Railway (BNSF) corridor (see Table 3-1, pages 3-4 and 3-5, of the Checkpoint B Summary Report [Authority and FRA 2011g] [http://www.hsr.ca.gov/Programs/Environmental_Planning/draft_fresno_bakersfield.html]). Alternative alignments within the BNSF corridor were selected to minimize impacts on farmland and sensitive habitat and to take into account all the other environmental impacts of the alternatives.

The project EIR/EIS for the Fresno to Bakersfield Section is based on the Statewide Program EIR/EIS for the California HST System (Authority and FRA 2005). The Statewide Program EIR/EIS considered alternatives on I-5, SR 99, and the BNSF corridor. The Record of Decision for the Statewide Program EIR/EIS selected the BNSF corridor as the preferred alignment for the Fresno to Bakersfield Section (FRA 2005b). Further engineering and environmental studies within the broad BNSF corridor have resulted in practicable alternatives that meet most or all project objectives, are potentially feasible, and would result in certain environmental impact reductions relative to each other. Accordingly, the project EIR/EIS for the Fresno to Bakersfield Section focuses on alternative alignments along the general BNSF corridor. The I-5 and SR 99 corridors were again considered during the environmental review for the Fresno to

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Bakersfield Section, but were eliminated from further consideration, as described in Standard Response FB-Response-GENERAL-02.

Neither the California Environmental Quality Act (CEQA) nor the National Environmental Policy Act (NEPA) requires an analysis of alternatives that have been rejected. Having rejected the SR 99 alternative at the level of the Statewide Program EIR/EIS (as documented in the Record of Decision), the Authority and FRA are not obligated to now include that alternative in the project-level EIR/EIS. Therefore, the project EIR/EIS for the Fresno to Bakersfield Section appropriately evaluates alternative alignments within the BNSF corridor.

The station locations are designed primarily to tie into the existing transportation network. City centers are where existing transit facilities are (e.g., the existing Amtrak station and Golden Empire Transit [GET] connections, in the case of Bakersfield), and typically city centers have good connections to the existing highway system. Also, a downtown station and the riders it attracts offer market incentives for commercial and residential development near the station. This "densification" can occur without the adverse, growth-induced impacts that would accompany a suburban or rural station.

The Authority has not ignored the City of Bakersfield's concerns and suggestions. Input from the City of Bakersfield has been taken into consideration in project planning since the project was initiated. A Downtown Bakersfield Station adjacent to the Amtrak station was originally incorporated into the project at the recommendation of the City of Bakersfield, Kern County, and the Kern Council of Governments. Since that time, the city and county have raised concerns about a downtown station, particularly the impacts on existing and planned land uses along the alternative alignments. The Revised DEIR/Supplemental DEIS was modified to include information provided by the City of Bakersfield, and the Authority continues to meet with city staff.

BO032-23

Refer to Standard Response FB-Response-GENERAL-02, FB-Response-GENERAL-25.

Proposition 1A mandates that the project follow existing transportation corridors to the extent possible. All alternatives through the San Joaquin Valley would impact

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agricultural land and sensitive habitats, including alternative alignments along Interstate 5 (I-5) and State Route (SR) 99. For example, in the screening analysis conducted for the Fresno to Bakersfield Section of the HST System, alternatives along SR 99 had comparable impacts on Important Farmland as alternatives along the BNSF Railway (BNSF) corridor (see Table 3-1 on pages 3-4 and 3-5 of the Checkpoint B Summary Report [Authority and FRA 2011g] [http://www.hsr.ca.gov/Programs/Environmental_Planning/draft_fresno_bakersfield.html]). Alternative alignments within the BNSF corridor were selected to minimize impacts on farmland and sensitive habitat and to take into account the environmental impacts of the other alternatives.

The project EIR/EIS for the Fresno to Bakersfield Section relies on information from the 2005 Statewide Program EIR/EIS for the California HST System (Authority and FRA 2005). The Statewide Program EIR/EIS considered alternatives on I-5, SR 99, and the BNSF corridor. The Record of Decision for the Statewide Program EIR/EIS rejected those routes and selected the BNSF corridor as the preferred alignment for the Fresno to Bakersfield Section (FRA 2005b). Further engineering and environmental studies within the broad BNSF corridor have resulted in practicable alternatives that meet most or all project objectives, are potentially feasible, and would result in certain environmental impact reductions relative to each other.

Accordingly, the project EIR/EIS for the Fresno to Bakersfield Section focuses on alternative alignments along the general BNSF corridor. The I-5 corridor was again considered during the environmental review for the Fresno to Bakersfield Section (see Section 2.3.2, Range of Potential Alternatives Considered and Findings, of the the Final EIR/EIS), but was eliminated from further consideration, as described in Standard Response FB-Response-GENERAL-02.

The project EIR/EIS for the Fresno to Bakersfield Section appropriately evaluates alternative alignments within the BNSF corridor.

The station locations are designed primarily to tie into the existing transportation network. A Downtown Bakersfield Station would adjoin the existing Amtrak station, with

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connections to Golden Empire Transit bus service. Also, the Downtown Bakersfield Station location was pursued at the earlier recommendation of the City of Bakersfield, Kern County, and the Kern Council of Governments.

Given the selection of the BNSF corridor as the Preferred Alternative in the 2005 Record of Decision, the physical and design limitations of locating the train within or near the BNSF line to minimize effects on adjoining properties, the continuation of the HST System eastward to Palmdale via Tehachapi along this line, and the intermodal connections available in Downtown Bakersfield, selecting alternative routes and stations in Bakersfield that are in close proximity to one another (with varying impacts on sensitive properties) is a reasonable approach.

BO032-24

Refer to Standard Response FB-Response-GENERAL-02.

Proposition 1A mandates that the project follow existing transportation corridors to the extent possible. All alternatives through the San Joaquin Valley would impact agricultural land and sensitive habitats, including alternative alignments along Interstate 5 (I-5) and State Route (SR) 99. For example, in the screening analysis conducted for the Fresno to Bakersfield Section, the alternatives along SR 99 had comparable impacts on Important Farmland as the alternatives along the BNSF Railway (BNSF) corridor (see Table 3-1, pages 3-4 and 3-5 of the Checkpoint B Summary Report [Authority and FRA 2011g] [http://www.hsr.ca.gov/Programs/Environmental_Planning/draft_fresno_bakersfield.html]). Alternative alignments within the BNSF corridor were selected to minimize impacts on farmland and sensitive habitat and to take into account the environmental impacts of the other alternatives.

The project EIR/EIS for the Fresno to Bakersfield Section is based on the Statewide Program EIR/EIS for the California HST System (Authority and FRA 2005). The Statewide Program EIR/EIS considered alternatives on I-5, SR 99, and the BNSF corridor. The Record of Decision for the Statewide Program EIR/EIS selected the BNSF corridor as the Preferred Alternative for the Fresno to Bakersfield Section (FRA 2005b).

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The I-5 and SR 99 corridors were again considered during the environmental review for the Fresno to Bakersfield Section, but were eliminated from further consideration, as described in Standard Response FB-Response-GENERAL-02 and Section 2.3.2, Range of Potential Alternatives Considered and Findings, of the Final EIR/EIS.

The project EIR/EIS for the Fresno to Bakersfield Section appropriately evaluates alternative alignments within the BNSF corridor. Neither the California Environmental Quality Act (CEQA) nor the National Environmental Policy Act (NEPA) requires an analysis of alternatives that have been rejected. Having rejected the SR 99 alternative at the level of the Statewide Program EIR/EIS (as documented in the Record of Decision), the Authority and FRA are not obligated to now include that alternative in the project-level EIR/EIS. Therefore, the project EIR/EIS for the Fresno to Bakersfield Section appropriately rejects an alternative alignment along SR 99.

BO032-25

Refer to Standard Response FB-Response-GENERAL-02, FB-Response-GENERAL-10.

Please refer to Table S-2, Comparison of Impacts of HST Alignment Alternatives, in the Summary of the Final EIR/EIS.

Environmental impacts are presented in Chapter 3, Affected Environment, Environmental Consequences, and Mitigation Measures, of the Final EIR/EIS (i.e., Sections 3.2 through 3.19). The analysis allows for comparison of impacts by alternative. With the various alternative alignments considered for the project, there are theoretically a total of 72 alternative ways for a single alignment to run from Fresno to Bakersfield. Providing an individual analysis of all 72 permutations would have made the document unreadable. More realistically, the alternatives consist of two choices of route along most of the alignment corridor and three choices in metropolitan Bakersfield.

To provide information to compare alternatives in as concise a format as possible, the impacts of a single alternative from Fresno to Bakersfield, termed the BNSF Alternative, were described first. This discussion was followed by a description of the impacts of the individual alternative segments (e.g., Hanford West Bypass Alternative, Allensworth Bypass Alternative) and a comparison of the difference in impacts between each of

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those alternative segments and the corresponding segment of the BNSF Alternative. In this way, the reader can quickly understand the implications of taking either the BNSF Alternative or one of the alternative segments for the particular environmental topic being evaluated.The Authority and FRA have followed the procedural and substantive requirements of the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). The Fresno to Bakersfield Section is well over 100 miles in length; the Authority has made every effort to provide a readable and understandable EIR/EIS. However, given the size of the project, it is simply unrealistic to expect the EIR/EIS to be sufficiently comprehensive while not also reflecting the complexity of the project. No factual information has been provided in this comment to indicate that the procedures and requirements of NEPA and CEQA were not followed in the environmental review process for the Fresno to Bakersfield Section.

BO032-26

Refer to Standard Response FB-Response-GENERAL-01, FB-Response-GENERAL-22.

BO032-27

As stated in Section 3.13.5.3, indirect land use effects of the alternative alignments would not change the pattern or intensity of adjacent land uses. Direct effects to land uses are described in Section 3.13.5.3.

As stated in Section 3.13.5.3, the project would require acquisition of land that is not currently in transportation uses; however, it would not change existing adjacent land uses, except possibly at the Kings/Tulare Regional Station alternative sites. The HST tracks and supporting facilities would not inhibit continuation of existing uses on adjacent lands, nor would they induce growth. In Bakersfield, much of the BNSF, Bakersfield South, and Bakersfield Hybrid alternatives are adjacent to the BSNF Railway and UPRR. However, portions of all three alternatives cross lands designated and zoned for residential, commercial, and community facilities uses. Therefore, the BNSF, Bakersfield South, and Bakersfield Hybrid alternatives would not be consistent with land use plans and policies in these areas. The permanent conversion of land for the project would result in a significant land use impact under CEQA.

In metropolitan Bakersfield, the BNSF Alternative follows the BNSF Railway through a

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densely developed residential area from Hageman Road to Coffee Road, where there is already an incompatibility between the existing freight rail line and residential uses. This incompatibility would be enhanced by the HST because the project would increase the intensity of the use of the land, and it would be incompatible with adjacent residential land uses. From Coffee Road to SR 99 east of the Kern River, the BNSF Alternative would convert industrial and commercial uses to transportation uses. In this area, the project would increase the intensity of the use of the land, but it would be compatible with adjacent land uses and with existing land use plans and policies.

East of SR 99 to the project terminus at the Bakersfield HST station, the BNSF Alternative remains close to the BNSF Railway; however, the existing freight rail is not compatible with many adjacent land uses in this area, including Bakersfield High School, community facilities flanking Truxtun Avenue, and the newly redeveloped Mill Creek area. The BNSF Alternative would enhance this incompatibility by converting residential, commercial, and community facility uses and intensifying the transportation use of the area. East of the Bakersfield HST station to Oswell Street, the BNSF Alternative would convert residential, commercial, and industrial uses to transportation uses. The project would increase the intensity of the use of the land and would be incompatible with adjacent land uses. However, the project would not change existing adjacent land uses.

As stated in Section 3.13.5.3, construction of the project on any of the alignment alternatives would temporarily use approximately 2,000 acres of land outside of the permanent footprint of project to provide for facilities for construction staging, lay down, and fabrication areas. Appendix 3.1-A shows all parcels within the project footprint.

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The Revised DEIR/Supplemental DEIS characterizes the full range of landscape types that constitute the project visual setting in Bakersfield and provides photographic examples of each type (Section 3.16.4.2). The range of affected landscape types is also characterized in terms of their viewer sensitivity, exposure, and overall viewer response, all of which are rated. These descriptions and examples provide a baseline context against which project impacts were evaluated. Where high-sensitivity viewer groups could be affected, potentially significant impacts were identified, key viewpoints (KVPs) selected, and simulations provided (Section 3.16.5.3). Figures 3.16-47, -48, -49, -50, -

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51, -52a, -52b, -52c, -53, -58, -59, -60, -61, -62, and -63 each depict KVPs representing a key sensitive viewer group that could be affected by the project within the city of Bakersfield. Although separate viewpoints for every possible viewing location are not possible, the range of key viewpoints in the Revised DEIR/Supplemental DEIS addresses all sensitive viewer groups and types identified within the project viewshed.

BO032-29

Refer to Standard Response FB-Response-GENERAL-01.

The Revised DEIR/Supplemental DEIS analyzed the impacts of implementation and construction of all mitigation measures including traffic mitigation measures. Analysis for traffic mitigation measures included impacts from traffic detours, construction air emissions, construction noise, and visual impacts.

BO032-30

Relocation of utility substations may be required as part of the proposed project, and the relocation of those facilities has been accounted for in the construction footprint and the EIR/EIS analysis. Where the project would require modification of any electrical substation or electrical transmission, power, or distribution line, such modifications would be conducted in compliance with the California Public Utilities Commission's General Order 131-D.

BO032-31

Refer to Standard Response FB-Response-N&V-05.

Mitigation Measures N&V - MM#1 and N&V - MM#2 will be implemented during construction activities to reduce construction noise and vibration levels to acceptable levels, according to FRA guidelines. The criteria for the sound barriers is discussed in Section 7.1.1 of the *Fresno to Bakersfield Section: Noise and Vibration Technical Report* (Authority and FRA 2012i). The location of the potential sound barriers is discussed in Section 7.2 of the *Fresno to Bakersfield Section: Noise and Vibration Technical Report* and Section 3.4.7.2 of the EIR/EIS.

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Mitigation measure BIO-MM#4 has been revised to provide additional information regarding implementation of a construction-phase Weed Control Plan and an operation-phase Annual Vegetation Control Plan, including the potential use of chemical vegetation control.

For the operation period, the Authority would generally follow the procedures established in Chapter C2 of the Caltrans Maintenance Manual to manage vegetation on Authority property (Caltrans 2010a). Vegetation would be controlled by chemical, biological, cultural, mechanical, structural, and manual methods. An annual vegetation control plan would be developed each winter for implementation no later than April 1 of each year. That plan would consist of site-specific vegetation control methods as outlined below:

- Chemical vegetation control noting planned usage
- Mowing program
- Other non-chemical vegetation control plans (manual, biological, cultural, and structural)
- List of sensitive areas
- Other chemical pest control plans (insects, snail, rodent, etc.)

Only Caltrans-approved herbicides would be used in the vegetation control program. Pesticide application would be applied in accordance with all requirements of the California Department of Pesticide Regulation and County Agricultural Commissioners by certified pesticide applicators. Noxious/invasive weeds would be treated where requested by County Agricultural Commissioners. The Authority would cooperate in an area wide control of noxious/invasive weeds if established by local agencies. Farmers/landowners who request weed control on State right-of-way that is not identified in the annual vegetation control plan would be encouraged to submit a permit request application for weed control, identifying weeds and control method desired.

Indirect impacts to biological resources, including special-status plant species that may occur as a result of implementation of the mitigation measures, are described in Section 3.7.5 Environmental Consequences, Construction Period Impacts – Common Biological Resource Impacts and Project Impacts – Common Biological Resource Impacts. Text in

BO032-32

the Final EIR/Final EIS states that indirect impacts through implementation are expected to result in negligible effects on special-status plant species because the control would be implemented on the Authority property where disturbance has eliminated potential suitable habitat for special-status plant species and the application would be conducted by a certified applicator.

BO032-33

Refer to Standard Response FB-Response-GENERAL-05.

In the Final EIR/EIS, an analysis was added to examine the impacts of implementing all of the proposed mitigation measures. In Section 3.12, this included the impact of relocating or constructing new buildings. Potential impacts to the physical environment from this mitigation would result from construction activities including emissions and fugitive dust from construction equipment, construction-related noise, visual impacts associated with new structures, and impacts to biological and cultural resources that may be present on the site of new structures. Any new facilities would be designed and constructed to be consistent with local land use plans, and would be subject to separate site-specific analysis under CEQA, including measures to mitigate impacts to a level less-than-significant. For this reason, it is expected that impacts of mitigation would be less than significant under CEQA and the impact would have negligible intensity under NEPA.

BO032-34

Refer to Standard Response FB-Response-GENERAL-01, FB-Response-SO-01.

As detailed in EIR/EIS Volume 1 Section 3.12, Impact SO#6, the HST alternatives through Bakersfield would travel through existing suburban and urban development in the Northwest and Northeast districts, displacing many homes, businesses, and important community facilities. The impact would be significant under CEQA.

The additional outreach programs presented in mitigation measure SO-2 were developed to minimize impacts associated with proposed HST alternatives dividing existing communities in Bakersfield. The Authority will conduct community workshops before completion of the final design to begin the process of determining potential use of

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the area next to the HST tracks. These meetings will provide neighborhood residents with the opportunity to contribute to the process. The Authority will be responsible for implementing the results of this outreach program through project design that could strengthen community cohesion and be compatible with the character of the adjacent community.

Even with the implementation of these mitigation measures, the division of existing communities in Bakersfield will be significant.

BO032-35

Refer to Standard Response FB-Response-AQ-05, FB-Response-BIO-02, FB-Response-GENERAL-01.

The Revised DEIR/Supplemental DEIS includes several mitigation measures that would mitigate land use impacts. About 60% of the land converted by the project to transportation uses is currently used for agriculture, which would represent a substantial change in the intensity of the use of this land. Therefore, mitigation measures for the loss of agricultural lands are included in the Revised DEIR/Supplemental DEIS. Other impacts to land use from construction (air quality, noise, and visual resources) are mitigated by measures specific to those resource impacts.

As stated in the CEQA Guidelines, where the design details of the project have not been fully developed and the development of specific mitigation will rely upon information not yet available, an EIR may take a phased approach to the development of specific mitigation, provided that it has analyzed the impact and made a significance determination, commits to mitigation in the form of a mitigation measure for the significant effect, and specifies "performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way" (14 CCR 15126.4(a)(1)(b)). The same is true under NEPA. As established under case law, the EIS must discuss mitigation “in sufficient detail to ensure that environmental consequences have been fairly evaluated,” but it is not necessary to formulate and adopt a complete mitigation plan (Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 352 [1989]).

BO032-35

Some comments suggest that the Revised DEIR/Supplemental DEIS has inappropriately deferred the identification of measures necessary to mitigate significant land use effects that may result from construction of the Fresno to Bakersfield Section. The Revised DEIR/Supplemental DEIS does not defer mitigation, but rather provides an extensive set of mitigation measures using performance standards included in project approval decisions made in the future by the Authority and the FRA. The Authority has established a program of providing station area planning grants to local jurisdictions. The City of Fresno has entered into an agreement with the Authority to receive such planning funds to develop a local visoin for station area development. The Authority has offered the same opportunity to the City of Bakersfield, but to date, the City of Bakersfield has not sought the funds for station area land use planning. The funds remain available for this purpose in Bakersfield.

BO032-36

Refer to Standard Response FB-Response-AVR-03.

BO032-37

Pile driving is only anticipated during the construction of bridges, aerial structures, or road crossings. Specific structures were not identified in the Revised DEIR/Supplemental DEIS as structures that could be affected will be identified as project designs are finalized. Once a construction scenario has been established, preconstruction surveys would be conducted at locations within 50 feet of pile driving to document the existing condition of buildings in case damage is reported during or after construction. Depending on distance of the building to the pile driving area, alternative methods would be used to avoid damage. Although it is not anticipated that damage would occur using alternative methods, if damage occurs, damaged buildings would be repaired or compensation paid. This mitigation measure would be effective as it would mitigate impacts to buildings identified within the area where the impact could occur and provides a mechanism for mitigating the impact (repair or compensation).

BO032-38

As described in 2.4.1, the No Project Alternative considers the effects of growth planned

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for the region as well as existing and planned improvements to the highway, aviation, conventional passenger rail, and freight rail systems in the Fresno to Bakersfield project area through the 2035 time horizon for the environmental analysis. The Revised DEIR/Supplemental DEIS does not assume that the No Project Alternative is the environmentally superior alternative as the determination on the environmentally superior alternative has not been made.

The Revised DEIR/Supplemental DEIS considered the project's conversion of land uses to a transportation use and the potential to alter land use patterns. In Bakersfield, much of the BNSF, Bakersfield South, and Bakersfield Hybrid alternatives are adjacent to the BSNF Railway and UPRR. However, portions of all three alternatives cross lands designated and zoned for residential, commercial, and community facilities uses. In metropolitan Bakersfield, the BNSF Alternative follows the BNSF Railway through a densely developed residential area from Hageman Road to Coffee Road, where there is already an incompatibility between the existing freight rail line and residential uses. This incompatibility would be enhanced by the HST because the project would increase the intensity of the use of the land, and it would be incompatible with adjacent residential land uses. The Bakersfield South alternative would not be consistent with land use plans and policies in these areas. The Revised DEIR/Supplemental DEIS states that permanent conversion of land for the project would result in a significant land use impact under CEQA. This conclusion is based on a comparison of the project to existing conditions and under No Project conditions, as required by CEQA and NEPA. Therefore, the analysis in the Revised DEIR/Supplemental DEIS is not inadequate.

BO032-39

The Revised DEIR/Supplemental DEIS did not identify an environmentally superior alternative and it is not required by CEQA and NEPA to do so at the draft stage of the environmental document. The environmentally superior alternative is identified in Chapter 7 of the Final EIR/EIS. The EIR/EIS analyzes the impacts of the project in comparison with existing conditions and No Project conditions, as required by CEQA and NEPA. The EIR/EIS quantifies the projected reduction in regional air pollutant and greenhouse gas emissions in Section 3.3.6.3. Chapter 3 of the EIR/EIS also describes, and where possible, quantifies the unavoidable adverse impacts of project alternatives, especially in Sections 3.3.6.3 (construction air quality impacts), 3.4.5.3 (noise), 3.7.5.3

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(biological resources), 3.12.8.2 (socioeconomics), 3.15.5.3 (land use), 3.14.5.3 (agricultural lands), 3.15.5.3 (parks, recreation, and open space), 3.16.5.3 (aesthetics), and 3.17.5.4 (cultural resources). In accordance with CEQA Guidelines (Section 15093, when a lead agency approves a project which will result in the occurrence of significant effects which are identified in the Final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record. This statement of overriding consideration is not related to the environmentally superior alternative.

BO032-40

Refer to Standard Response FB-Response-GENERAL-17.

For the reasons identified in FB-Response-GENERAL-17, there is reasonable certainty that there will be sufficient funds to cover the costs of construction. The Revised DEIR/Supplemental DEIS did not identify an environmentally superior alternative and it is not required by CEQA and NEPA to do so at the draft stage of the environmental document. The environmentally superior alternative is identified in Chapter 6 of the Final EIR/Supplemental EIS.

BO032-41

Table 3.3-8 in the Final EIR/EIS states the greenhouse gas (GHG) emissions associated with construction of the HST. This table outlines the GHG emissions for each construction year (2013 to 2022). The total GHG emissions from construction are then amortized over 25 years, as was suggested by San Joaquin Valley Air Pollution Control District staff (Barber 2010, personal communication), to represent the appropriate life of the project. In determining the significance of these emissions, the Final EIR/EIS chooses to use a significance threshold based on the amount of time for the net increase in construction GHG emissions to be offset by the net decrease in operational GHG emissions after the built project becomes operational. Because it was determined that it would take less than one year of HST operation to offset the amount of emissions associated with the construction of the project, the Final EIR/EIS concludes that the construction GHG emissions would be less than significant.

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BO032-42

As mentioned in Section 3.3.4.9 of the Final EIR/EIS, an alternative approach that provides more flexibility for modeling the complexity associated with the proposed HST construction activities than allowed for by URBEMIS and California Emission Estimator Model (CalEEMod) was used for this analysis. It allows incorporation of the OFFROAD 2011 emission rates. This revised approach was developed in consultation with the San Joaquin Valley Air Pollution Control District. Both URBEMIS and CalEEMod use the California Air Resources Board's OFFROAD and EMFAC, as well as the U,S, EPA's AP-42 emission factors for fugitive dust. Given the special nature of this project's construction schedule and equipment, it is better suited to utilize the emission factors directly rather than with the aid of either the URBEMIS or CalEEMod models. CEQA does not require the Project to use the same methodology used in the 2005 program EIR/EIS. The methodologies have been updated to reflect changes to the base emission factors used in the calculations which reflect the best available data and incorporate recent regulatory changes that impact emissions.

The Fresno to Bakersfield Section: Air Quality Technical Report, Section 6.8, describes the methodology in more detail. This is supplemented with Appendix A of the Air Quality Technical Report that contains the detailed schedule, equipment list, and emission factors that are necessary to develop the emissions inventory utilizing the appropriate methodology outlined by the OFFROAD, EMFAC, and AP-42 documentation (Authority and FRA 2012f).

BO032-43

As the commenter notes, the Revised DEIR/Supplemental DEIS uses a combined plan and list approach to define the cumulative scenario. The use of both general plans and project lists for projecting future conditions is an acceptable approach under CEQA. However, actual development is dependent largely on the economy, which fluctuates throughout the course of a general plan's life cycle.

As described in Standard Response GENERAL-03 (HST and Growth in the San Joaquin Valley – Measures to Realize Densification Benefits of HST – Role of Local Governments/Station Area Cities and Counties in Making it Happen), despite the current economic downturn substantial growth is projected to occur in the San Joaquin Valley over the next several decades. For example, the California Department of Finance's

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(DOF's) Population Projections for California and Counties (DOF 2013) anticipate that Fresno County's population will increase by 394,217 persons between 2010 and 2035, and during the same period Kern County will add 643,531 residents, Kings County will add 67,058 residents, and Tulare County will add 238,956 residents. The analysis of current general plans of cities and counties within the region found that the cities have enough area within their current spheres of influence to accommodate the planned growth to 2035 as well as the HST-induced growth. Although the recent changes in the economy have slowed this growth, the general long-term trends are expected to continue because the region attracts people seeking affordable housing, and the cities of Fresno and Bakersfield are the main economic centers.

Cumulative impacts are assessed based on the combined effects of the HST alignments, together with the implementation of the cumulative projects. Cumulative impact analysis must consider "reasonably probable future projects." Neither CEQA nor NEPA limits consideration of known projects that are expected to contribute to the cumulative impact based on the year of project opening. That approach would negate the requirement to examine reasonably probable future projects.

The EIR/EIS relies on the existing general plans, augmented by known future projects, to describe the cumulative impact to which the project would contribute. Rather than artificially inflating cumulative impacts, this approach may be an underestimate of actual impacts. The analysis cannot account for future projects that are not known and cannot be known at this time without resorting to speculation because California Planning Law (Government Code Section 65300 et seq.) authorizes a city or county to amend its general plan three times yearly. Unless long-term trends unexpectedly reverse themselves, future amendments that may contribute to cumulative impacts will inevitably be proposed during build-out of the city and county general plans. To the extent that such amendments are approved, cumulative impacts may be greater than can be known at this time. The EIR/EIS has made a good faith effort at disclosure of cumulative impacts based on the information that is reasonably available.

Regardless of whether the general plans are fully built out by 2035, the overall severity of cumulative impacts described in the Revised DEIR/Supplemental DEIS would likely not change, given the growth trends in the region.

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BO032-44

Refer to Standard Response FB-Response-LU-03.

Chapters 3.13 Station Planning, Land Use, and Development and 3.19 Cumulative Impacts have been revised in the Final EIR/EIS to provide more specific information. This specific information does not alter the significance conclusions stated in the Revised DEIR/Supplemental DEIS and would not trigger the need for recirculation of the Revised DEIR/Supplemental DEIS.

BO032-45

These documents were available at public request, as required by CEQA. In addition, they are readily available on the websites of the four counties. There is no requirement that reference materials that are available on agency websites be linked to the Project's web page. The general plans are easily found by name through a search using a common web browser such as Google.

BO032-46

Land designated as a permanent impact may be used for the HST alignment, roadway widening, to provide necessary access to remaining parcels, or another component of the project. That designation accounts for the areas identified in the project footprint as areas of permanent impact.

It should be kept in mind that Bakersfield Commons is an approved but not yet built project. As such, the EIR/EIS has identified what will be future impacts at such time as Bakersfield Commons is actually built. Impacts on the Bakersfield Commons project area would remain significant until landscape screening matures, and Mitigation Measure CUM-VQ-MM#3 has been proposed to minimize the impact. This mitigation measure states that the Authority will coordinate with local jurisdictions to provide information about the project design so that the local plans and proposed development projects that could be adversely affected by the HST alternatives can be modified and potential visual impacts to high-sensitivity viewers can be reduced.

BO032-47

Refer to Standard Response FB-Response-SO-01, FB-Response-SO-02.

As described in FB-Response-56 and -57, owners who believe they have suffered a loss of property value as a result of the project may file a claim with the State of California's Government Claims Board. More information about that claims process may be obtained online at: www.vcgcb.ca.gov/claims. In general, anyone who wishes to file a lawsuit against the State or its employees for damages must first pursue an administrative remedy through the GCB claims process.

BO032-48

The elevated HST segments could have significant cumulative visual impacts with the Bakersfield Commons project without plan modifications to accommodate the HST project. Because the Bakersfield Commons project does not exist and is thus not part of the CEQA or NEPA baseline condition, it has been treated as a cumulative project. Section 3.19.4.2 identifies the cumulative impacts on the Bakersfield Commons project as significant. Mitigation measure CUM-VQ-MM#3: Coordination on plan development, is recommended to address this impact.

BO032-49

Refer to Standard Response FB-Response-GENERAL-21, FB-Response-SO-02.

As stated in EIR/EIS Section 3.13.3, direct impacts occur if the land use would change for the project footprint, either along the alignment or at a facility or station. Indirect impacts occur where land use adjacent to the project footprint would change as a result of the project, particularly during operation. For the direct effects on land use, the study area includes the construction footprint and the proposed HMF sites as described in Section 2.2.8.2, HST Heavy Maintenance Facilities. For indirect effects on land use, the study area includes the land outside of the construction footprint.

As stated Section 3.13.5 of the Revised DEIR/Supplemental DEIS, the effect of the permanent conversion of land for the project would have moderate intensity under NEPA. Additionally, the project would require acquisition of land that is not currently in transportation uses; however, it would not change existing adjacent land uses except possibly at the Kings/Tulare Regional Station alternative sites.

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In areas where the HST is not adjacent to existing railroad tracks, there would be a change in the intensity of land use that is incompatible with adjacent land uses. This change in intensity would occur from an increase in noise. However, even with increased noise, the area within a 250-foot radius could be used for commercial land uses and would still retain economic value. For areas with existing land uses, the HST tracks and supporting facilities would not inhibit continuation of existing uses on adjacent lands and would not preclude the use of the land for a variety of different purposes.

The Bakersfield Commons project will be constructed over time and will include retail, office, parks, and residential uses. Land uses that are less sensitive to noise, such as retail and office uses could be sited within the Bakersfield Commons project in a manner that would allow total use of the Bakersfield Commons property and would not result in permanent impacts greater than stated in the Revised DEIR/Supplemental DEIS.

BO032-50

Refer to Standard Response FB-Response-SO-01.

The Authority is not allowed to condemn property for temporary construction easements. The Design Build Contractor would negotiate temporary construction easements with the property owner. The range of activities that could occur within the temporary construction easements were identified and analyzed for lands in the Revised DEIR/Supplemental DEIS in excess of what is expected. The Design Build Contractor may choose to use a different location based on negotiations with land owners. Therefore, impacts to this parcel has been evaluated and the possibility exists that none would occur.

Project construction is expected to be completed within 7 years. This period extends from the beginning of the first phase of construction and continues through operational testing of the HST System. It is expected that heavy construction activities, such as grading, excavating, and laying the HST rail bed and trackway, would be accomplished within a 5-year period. The specific construction impacts to each community may not occur throughout the entire duration of the project construction period.

BO032-51

Chapter 3.19 Cumulative Impacts has been revised in the Final EIR/EIS to provide more specific information on the impacts and the mitigation measures to reduce impacts to the Bakersfield Commons project. This specific information only provides more detail and does not alter the significance conclusions stated in the Revised DEIR/Supplemental DEIS for impacts to the Bakersfield Commons project.

Recirculation of the Revised DEIR/Supplemental DEIS would only be required if the new information showed a new, substantial environmental impact resulting either from the project or from a mitigation measure; showed a substantial increase in the severity of an environmental impact, or described a feasible alternative or mitigation measure, considerably different from those considered in the Revised DEIR/Supplemental DEIS. The new information would do none of those things; therefore, recirculation of the Revised DEIR/Supplemental DEIS is not required.

BO032-52

Temporary construction easements were included in the Revised DEIR/Supplemental DEIS; however, the design build contractor may choose to use a different location (that is also included in the analysis in the Revised DEIR/Supplemental DEIS) based on input from the land owner. Therefore, impacts to this parcel would be limited to the footprint that includes the chosen project alignment.

Bakersfield Commons was evaluated as a future project in the cumulative impact analysis. The development plan provided in the Bakersfield Commons Final EIR dated 2010 is evaluated in the cumulative impacts analysis of the Revised DEIR/Supplemental DEIS, as summarized in Table 3.19-A-8 "City of Bakersfield Planned and Potential Projects and Plans" in Appendix 3.19-A. Impacts to this future development are specifically disclosed there and in the cumulative impact assessment provided in Section 3.19 of the Revised DEIR/Supplemental DEIS.

BO032-53

Refer to Standard Response FB-Response-GENERAL-01.

There is currently no development on the Coffee-Brimhall property. Therefore, the

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baseline condition for the project's impacts is vacant land.

Bakersfield Commons was evaluated as a future project in the cumulative impacts analysis. The development plan provided in the Bakersfield Commons Draft EIR (City of Bakersfield 2010) is evaluated in the cumulative impacts analysis in the Final EIR/EIS, as summarized in Appendix 3.19-A (Table 3.19-A-7, Planned and Potential Projects and Plans - City of Bakersfield). Impacts on this future development are specifically disclosed there and are also discussed in Section 3.19, Cumulative Impacts, of the Final EIR/EIS.

BO032-54

Refer to Standard Response FB-Response-GENERAL-01, FB-Response-GENERAL-02, FB-Response-GENERAL-25.

The project EIR/EIS for the Fresno to Bakersfield Section appropriately evaluates alternative alignments within the BNSF corridor. The discussion of "Alternative 4" referenced by the commenter summarizes the selection process. The alternatives analysis process evaluated design options within individual alternatives in order to isolate concerns, screen, and refine the overall alternative to avoid key environmental issues or improve performance. The alternatives that were not carried forward had greater direct and indirect environmental impacts, were impracticable, or failed to meet the project purpose. As stated in the Preliminary Alternatives Analysis Report, Fresno to Bakersfield Section High-Speed Train Project EIR/EIS (Authority and FRA 2010b) (also available on the Authority's website), Alternatives 2, 3, and 4 were eliminated from further consideration based on a variety of reasons. The alignments in these initial alternatives pass directly through the Flying J Refinery along the BNSF right-of-way. The freight rail right-of-way is narrow in this area and would not allow HST tracks to share the constrained right-of-way. In addition, gas pipelines parallel and pass under the right-of-way, posing obstacles for construction and the possibility of encountering fuel leaks and contaminated soil. The Technical Team conducted a risk assessment of HST operation through an active refinery and concluded that the proximity of the trains to refinery facilities that could release toxic gases or cause explosions could not be adequately mitigated to minimize risk to the passing trains and their riders. The risk assessment also cautioned that sparking from the trains' overhead power lines could

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ignite a gas release, causing an explosion. For these reasons, the aforementioned alternatives were not carried forward. In addition, "Alternative 4"would not provide a downtown station location.

Section 1.1.2 of the Final EIR/EIS states that the Fresno to Bakersfield HST Project section would connect a Fresno station, a Kings/Tulare Regional station in the Hanford/Visalia/Tulare area, and a Bakersfield station. A station in downtown Bakersfield would be consistent with this need.

BO032-55

Refer to Standard Response FB-Response-GENERAL-02.

The station locations are designed primarily to tie into the existing transportation network. A downtown Bakersfield station would adjoin the existing Bakersfield Amtrak station and would be convenient to Golden Empire Transit bus connections. It would also be convenient to the City's convention center and convention hotel. The Authority has not ignored the City of Bakersfield's concerns and suggestions. In fact, the Authority has continued to meet with City representatives to discuss their concerns. Input from the City of Bakersfield has been taken into consideration in project planning since the project was initiated. The City's current opposition does not change the fact that a downtown Bakersfield station was the original recommendation of the City of Bakersfield, Kern County, and the Kern COG. The City and County have since changed their positions and the Revised DEIR/Supplemental DEIS was modified to include information to that effect provided by the City of Bakersfield.

The Authority's statutory mandate under its enabling legislation is to plan and implement a HST system for California linking the San Francisco Bay Area and Los Angeles Basin in its first phase, with further connections to Sacramento and San Diego in phase two. The Authority continues to reach out to the City with the intent of reaching an accommodation. However, the Authority cannot truncate this state project near Bakersfield because of the wishes of the City and County, because that would cause the Authority violate to its statutory obligation to create a continuous HST system from the Bay to the Basin.

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BO032-56

Refer to Standard Response FB-Response-GENERAL-02, FB-Response-GENERAL-25.

The Authority is considering three alternative downtown Bakersfield alignments and station locations. Each has a different set of impacts and avoids a different set of sensitive properties. However, given the constrained physical area available in which to site the HST in a developed urban area, it is not feasible to avoid all effects. The purpose of an EIR is to analyze and document the environmental impacts of a project. The fact that a project alternative will result in environmental impacts is not a violation of CEQA.

BO032-57

Refer to Standard Response FB-Response-SO-06, FB-Response-AVR-04.

The comment is correct that construction and operation of the HST will have community impacts, primarily through the permanent acquisition of property required for the project. In several areas in Bakersfield, the alignment deviates from the existing transportation corridor to accommodate the turning-radius requirements of a high-speed train and to incorporate a station. In these areas, the substantial acquisition of right-of-way and the redevelopment of properties will divide established communities. The project would change the physical character of the community and alter community cohesion, and the impact would be significant under CEQA.

The HST system will also be beneficial to communities in the region by improving access to jobs and amenities, reducing travel times, reducing traffic congestion, and by providing new employment opportunities through project construction and operation. Other benefits will occur in the neighborhoods where the stations are constructed, such as Bakersfield. The project will likely stimulate redevelopment efforts in these locations, which will result in improved neighborhood character and vitality, potentially strengthening community cohesion. The people who live or work in the general vicinity of the proposed station location in Bakersfield will benefit the most from the improved access and revitalization.

BO032-58

Refer to Standard Response FB-Response-GENERAL-02, FB-Response-GENERAL-25.

As detailed in Volume I Chapter 3.12 Impact SO#6, the HST alternatives through Bakersfield would travel through existing suburban and urban development in the city, displacing many homes, businesses and important community facilities. The impact of disruption to community cohesion would be significant under CEQA. Mitigation Measure SO-2: *Implement measures to reduce impacts associated with the division of existing communities*, was developed to reduce the community division impacts by conducting community workshops before the completion of final design to begin the process of determining potential use of the area adjacent to the HST tracks. Additional details about the plan to involve the Bakersfield community in these decisions have been added to the Final EIR/EIS. These meetings will provide neighborhood residents the opportunity to contribute to the process of identifying desired design concepts that will strengthen community cohesion and be compatible with the character of the adjacent community. The Authority will be responsible for implementing the results of this outreach program into the final project design. As noted in the comment, even with the implementation of this mitigation measure, the division of existing communities in Bakersfield will be significant.

A range of alignment and station alternatives, including alternatives though downtown as well as around the urban core to the northeast and southwest, were identified during the initial engineering and environmental studies of the California HST System in coordination with the City of Bakersfield and Kern County.

The alternatives have been optimized to avoid disruption to existing land uses and communities, while providing a station location within Bakersfield, which is needed to maximize intermodal transportation opportunities by locating stations to connect with local transit, airports, and highways and fulfill the purpose and need for the project.

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Refer to Standard Response FB-Response-GENERAL-01.

The President's Council on Environmental Quality (CEQ), as part of its oversight of implementation of the National Environmental Policy Act (NEPA), held meetings in the

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10 Federal regions with federal, state, and local officials to discuss administration of the implementing regulations in Title 40 Code of Federal Regulations (CFR) Sections 1500-1508. The 40 most asked questions were compiled in a memorandum to agencies for the information of relevant officials and published in the Federal Register at 46 Federal Register 18026 (1981). The response to question 4b. addresses this comment with regard to the agency's Preferred Alternative, or the "proposed project" under the California Environmental Quality Act (CEQA).

Section 1502.14(e) (40 CFR 1502.14[e]) requires the section of the EIS on alternatives to "identify the agency's preferred alternative if one or more exists, in the draft statement, and identify such alternative in the final statement . . .." This requirement means that if the agency has a Preferred Alternative at the Draft EIS stage, that alternative must be labeled or identified as such in the Draft EIS. However, if the responsible federal official has no Preferred Alternative at the Draft EIS stage, a Preferred Alternative need not be identified there. By the time the Final EIS is filed, Section 1502.14(e) presumes the existence of a Preferred Alternative and requires its identification in the Final EIS "unless another law prohibits the expression of such a preference" (CEQ n.d. [http://ceq.hss.doe.gov/nepa/regs/40/1-10.HTM#4])

Neither the Authority nor FRA had selected a "proposed project" under CEQA or a Preferred Alternative under NEPA at the time the Draft EIR/EIS or the Revised DEIR/Supplemental DEIS was circulated. As required by NEPA, all alternatives carried through the Draft EIR/EIS and Revised DEIR/Supplemental DEIS were described in sufficient detail to evaluate the potential impacts of each alternative. Proposed mitigation measures are discussed by resource in Chapter 3, Affected Environment, Environmental Consequences, and Mitigation Measures, of the EIR/EIS. The Preferred Alternative was selected during preparation of the Final EIR/EIS (and reflected in that document) in order for the Authority to consider the comments submitted and issues raised during the comment period in selecting that alternative.

Contrary to the commenter's assertion regarding contacts with the City of Bakersfield, the Authority has long involved the City of Bakersfield in its planning process. This involvement dates back at least a decade to the scoping of the Statewide Program EIR/EIS, during which the City expressed its desire for a downtown station. The

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Authority has not ignored the City's concerns and suggestions. The Authority worked with Kern Council of Governments (Kern COG) in the early 2000s to identify potential station locations, including a downtown site. Input from the City of Bakersfield has been taken into consideration in project planning since the project was initiated. In fact, the proposed Downtown Bakersfield station site adjacent to the Amtrak station was included at the prior recommendation of the City of Bakersfield, Kern County, and the Kern COG. The Authority continues to meet with the City with the goal of reaching an accommodation regarding the City's concerns and the Authority's obligations under its enabling legislation.

Specific meetings held with the City include the following:

Date	Meeting Name	Agency Participants
4/2/2007	City Manager, City of Bakersfield	Alan Tandy - City Manager,City of Bakersfield
4/2/2007	Mayor, City of Bakersfield	Harvey Hall - Mayor, City of Bakersfield
4/2/2007	Vice Mayor, City of Bakersfield	Harold Hanson - Vice Mayor, City of Bakersfield
12/5/2008	City of Bakersfield	Harvey Hall - Mayor, City of Bakersfield, Harold Hansen, Arnold Ramming
1/28/2009	City of Bakersfield Council Members	Vice Mayor Zack Scrivner, Councilmember Jackie Sullivan, Councilman Ken Weir

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1/28/2009	City of Bakersfield Staff	Mayor Harvey Hall anc Councilmember Harold Hanson, Donna Kunz, Raul Rojas, Alan Tandy
1/29/2009	City of Bakersfield Councilmembers	City Councilmember Sue Benham & Councilmember David Couch
1/29/2009	City of Bakersfield Vice Mayor and Councilmembers	Vice Mayor Zack Scrivner, Councilmember Jackie Sullivan, & Councilmember Ken Weir
1/21/2010	Station Planning Meeting with City of Bakersfield Staff	City of Bakersfield staff and other invited technical staff
3/11/2010	City of Bakersfield City Manager	Bakersfield City Manager
3/31/2010	City of Bakersfield Economic and Community Development	Agency Representatives
3/10/2011	City Manager, City of Bakersfield	City Representatives
3/25/2011	City of Bakersfield	City Staff
4/28/2011	City of Bakersfield	City Officials

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1/20/2012	City of Bakersfield Meeting	Vice Mayor Couch, Alan Tandy and City Staff
9/26/2012	City Manager, City of Bakersfield	Alan Tandy, City Manager, City of Bakersfield
11/7/2012	City of Bakersfield	City of Bakersfield Representatives
12/12/2012	City of Bakersfield	City of Bakersfield staff and other invited technical staff
2/13/2013	City of Bakersfield	Alan Tandy, City Manager

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Refer to Standard Response FB-Response-GENERAL-08, FB-Response-LU-03.

Regarding the consistency of the project with Goal 3 and 7, and Policies 41, 53, and 55:

Goal 3: As stated in 3.13.5.3,although much of the BNSF, Bakersfield South, and Bakersfield Hybrid alternatives in Bakersfield are adjacent to the BSNF Railway and UPRR, portions of all three alternatives cross lands designated and zoned for residential, commercial, and community facilities uses. The Bakersfield South and Bakersfield Hybrid alternatives would not be consistent with land use plans and policies in these areas. This impact was analyzed in the Revised DEIR/Supplemental DEIS.

Goal 7: This goal is related to buildings and would not apply to the HST trackway and alignment. The final, specific level of design of the Bakersfield Station would be developed in coordination with the City of Bakersfield. As stated in 3.16.5.3, the conceptual design of the Bakersfield Station would compatible in scale with nearby, predominantly modern architecture in the central downtown area. This conceptual

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design would be further refined to facilitate consistency with existing civic and commercial buildings in the area.

Policy 41: As stated in 3.13.5.3, the Bakersfield station could potentially increase land use densities and TOD in downtown Bakersfield, which would be consistent with local plans and policies, including Policy 41. The alternative station sites are consistent with HST transportation planning in Bakersfield and were identified as the preferred location for the station in past resolutions by the City of Bakersfield, Kern County, and the Kern County Council of Governments.

Policy 53: The Authority would coordinate with jurisdictions and service providers related to construction of the HST and all infrastructure improvements associated with the HST. The project would be consistent with this goal.

Policy 55: As stated in 3.4.7.5, the Authority would work with local jurisdictions on the mitigation for noise impacts. This mitigation would take into account input from jurisdictions and balancing technological factors, such as structural and seismic safety, cost, number of affected receivers, and effectiveness, mitigation measures would be selected and implemented consistent with the HST Noise Guidelines. The project would be consistent with this goal.

BO032-61

Refer to Standard Response FB-Response-GENERAL-02.

According to the comment, "the effect (of the HST project) will be to erect a wall through northwest and central Bakersfield, destroying the visual environment, interrupting the sense of openness and continuity that currently exists, and eliminating all vistas in vicinity of alignment."

Particularly in the elevated sections, the alignments would indeed generally be highly prominent. However, it is not accurate to describe the effect of the proposed elevated viaducts as "a wall." Rather, they would be similar to elevated highways, describing a thin horizontal line, supported by intermittent, visually thin vertical columns. This fact is not irrelevant, because the design leaves the areas under the elevated guideways open

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and transparent to views beyond. In some areas where the guideways are closer to the ground, the ability to see beyond could be impaired, but these situations are restricted to certain limited sections, depending on the alternative.

The viaducts cannot be said to "destroy the existing visual environment." In much of Bakersfield, the HST alignments would occupy portions of the existing freight rail yards and rights-of-way. As discussed in the Revised DEIR/Supplemental DEIS, these existing visual environments, which are characterized by very poor visual quality and virtually no visual sensitivity, would not be destroyed by the addition of the guideways. Similarly, the openness and continuity of many areas near the alignments currently consists of views toward or over freight rail yards and rail rights-of-way. Rather than continuity, these rail areas have historically divided the community spatially and visually, representing an abrupt, dramatic contrast in visual character, an impediment to views and movement, and a boundary defining the edges of the adjoining city districts. Such a setting would be the least vulnerable setting in which to locate a transportation facility, because it would occupy an already disturbed area, adding incrementally to an already visually compromised, industrial setting. The height of the viaducts would make them more prominent than the existing rail yards. However, this added level of prominence could be effectively mitigated in many situations, either through screening, landscape design measures, or structural design measures where sensitive receptors would be affected. Landscape and structural design measures of the HST project could potentially enhance the visual quality at the boundary between sensitive adjacent residential neighborhoods and the existing rail yards, particularly in central Bakersfield.

The viaducts would not eliminate all existing vistas in the vicinity of the alignment. The great majority of vistas toward the alignments are views that currently consist of the existing rail yards in which the alignments are located. No vistas that could be characterized as "scenic" would be blocked by the elevated viaducts or other project structures in the city of Bakersfield.

The project alternatives were reviewed with respect to all of these types of visual impacts (i.e., declines in visual quality, alteration of existing visual character, and scenic view blockage). The Revised DEIR/Supplemental DEIS analysis focuses on the impacts to sensitive receptors identified in the vicinity of the alignments. Where strong or

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prominent effects are anticipated, these have been described and the impacts or degree of visual change rated. The mitigation measures described in the Revised DEIR/Supplemental DEIS provide a wide range of methods to address these various impact types and situations and provide the means for mitigating or reducing those specific impacts in nearly all cases.

BO032-62

Refer to Standard Response FB-Response-GENERAL-10.

The procedural requirements for NEPA and CEQA were followed during the environmental review of the Fresno to Bakersfield Section of the HST System.

The Authority and the FRA's prior program EIR/EIS documents (see Section 1.5, Tiering of Program EIR/EIS Documents) selected the BNSF Railway route as the preferred alternative for the Central Valley part of the HST System between Fresno and Bakersfield in the 2005 Statewide Program EIR/EIS decision document (Authority and FRA 2005). Therefore, the Project EIR/EIS for the Fresno to Bakersfield Section focuses on alternative alignments along the general BNSF Railway corridor.

As discussed in Section 2.3.1 of the EIR/EIS, the Authority implemented an alternatives analysis process to identify the full range of reasonable alternatives for the project, as required under 14 California Code of Regulations (CCR) 15126.6 and 40 Code of Federal Regulations (CFR) 1502.15(a). This range of alternatives was analyzed in the EIR/EIS for the Fresno to Bakersfield Section.

The purpose of project alternatives is to minimize or avoid impacts. For the Fresno to Bakersfield Section of the HST System, alternatives were developed to reduce or avoid impacts associated with the BNSF Alternative. In Bakersfield, the BNSF Alternative would displace six religious facilities, the Bakersfield High School Industrial Arts building, the Mercado Latino Tianguis, and 119 homes in the eastern portion of the city. In contrast to the corresponding segment of the BNSF Alternative, the Bakersfield South Alternative would not affect the Bakersfield High School campus or the Mercado Latino Tianguis. However, the alignment would displace five religious facilities, the Bethel Christian School, and 146 homes in east Bakersfield. The Bakersfield Hybrid Alternative

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would not affect the Bakersfield High School campus or the Bethel Christian School; however, this alternative would displace one religious facility, the Mercado Latino Tianguis, the Bakersfield Homeless Shelter, and 57 homes in east Bakersfield.

The comment states that impacts would remain significant at the sites listed after mitigation, but that assertion is not self-evident and we disagree. For example, Bakersfield High School would be strongly affected under the BNSF Alternative, but far less so under the Bakersfield Hybrid and Bakersfield South alternatives.

Our Lady of Guadalupe School and other locations on E. California Avenue could be strongly affected only under the Bakersfield South Alternative. Similarly, Owens Middle School would be strongly affected under the BNSF Alternative, but far less so under either the Bakersfield Hybrid or the Bakersfield South alternatives. As discussed on p. 3.16-141 of the Revised DEIR/Supplemental DEIS and depicted on Figure 3.16-63 of the Revised DEIR/Supplemental DEIS, effects at Owens Middle School would be limited due to screening by tall existing tree canopies and other intervening development. These examples themselves somewhat belie the assertion that a full range of alternatives to lessen or avoid impacts has not been provided. In fact, visual impacts on Bakersfield High School and Owens Middle School would be substantially reduced by either the Bakersfield Hybrid or the Bakersfield South alternatives compared with the BNSF Alternative. Impacts to Our Lady of Guadalupe School would be avoided by either the BNSF Alternative or the Bakersfield Hybrid Alternative. As discussed above, impacts on residential viewers in central Bakersfield would be seen against the background of an existing freight rail corridor that both defines the edge of the residential areas and is characterized by poor visual quality. In most or all of these instances, it would be possible to substantially reduce impacts by landscape screening, structural design enhancement, and other proposed measures.

BO032-63

Refer to Standard Response FB-Response-GENERAL-01.

This comment concludes Mr. Mihlsten's letter. In the conclusion, Mr. Mihlsten claims that because of the comments discussed in the letter, the Authority and FRA must revise the EIR/EIS and recirculate it. The Authority and FRA respectfully disagree. For the reasons

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provided in the responses to the comments from this letter, no substantial evidence has been documented to identify a new significant effect. Therefore, there is no need for recirculation of the EIR/EIS. Furthermore, the Final EIR/EIS complies with both the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) and is not fundamentally inadequate such that it cannot be used for decision-making.

BO032-64

As stated in Section 3.13.3.3, the study area, for direct effects includes the construction footprint and the five proposed sites for an HMF, footprint areas that would directly change land use from the existing land use to a transportation land use. For indirect effects on land use, the study area particularly focused on station areas, which have the greatest probability of causing changes or impacts on land use type, density, and patterns of development. However, this 0.5-mile buffer was only around stations and not along the alignment. More distant land use effects were also considered, such as where roadway intersection impacts would influence land use decisions. The quantitative analysis considered direct impacts related to the conversion of land uses to a transportation-related use, and the required property acquisitions for the project. Impact acreages for land use direct and indirect land use impacts were calculated using both the construction footprint and the permanent project footprint.

As stated in Section 3.13.5.3, the project would require acquisition of land that is not currently in transportation uses; however, it would not change existing adjacent land uses except possibly at the Kings/Tulare Regional Station alternative sites. The HST tracks and supporting facilities would not inhibit continuation of existing uses on adjacent lands. In Bakersfield, much of the BNSF, Bakersfield South, and Bakersfield Hybrid alternatives are adjacent to the BSNF Railway and UPRR. However, portions of all three alternatives cross lands designated and zoned for residential, commercial, and community facilities uses and would not be consistent with land use plans and policies in these areas and would result in a significant land use impact under CEQA.

The Bakersfield Commons project proposes residential and commercial uses in the area of the HST tracks. As stated in Section 3.13.5.3, the project would result in the permanent conversion of those lands from residential and commercial uses and would

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not be consistent with land use plans. This conclusion would be true for lands proposed for construction of Bakersfield Commons. However, the Bakersfield Commons project is in the conceptual design phase and has not been constructed. Residential uses are planned as part of Phase II and it is assumed that these uses would be developed depending on market conditions. Therefore, it is possible at this stage of conceptual design to redesign land uses on the Bakersfield Commons site for increased compatibility with the HST.

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Refer to Standard Response FB-Response-SO-02.

As stated in Section 3.13.5.3, the permanent conversion of land for the project would result in a significant land use impact under CEQA. The project would bisect areas of residential (single- and multiple-family uses) and commercial land uses on the Bakersfield Commons project site creating direct impacts from the conversion of land to a transportation use. The project would also result in impacts from noise related to construction and operation and aesthetics impacts from the guideway and noise soundwalls.

The Bakersfield Commons project is in the conceptual design phase and has not been constructed. Residential uses are planned as part of Phase II and it is assumed that these uses would be developed depending on market conditions. Therefore, it is possible at this stage of conceptual design to redesign land uses on the Bakersfield Commons site for increased compatibility with the HST. Refer to Standard Response FB-Response-SO-02 for a discussion of lower property values created by the HST, as well as information on how to file a claim.

Between the HST project and the future Bakersfield Commons project as currently designed, significant cumulative visual impacts are recognized in the Revised DEIR/Supplemental DEIS. A coordinated planning process is recommended as a mitigation measure to address the conflicts between the two plans (see Mitigation Measure CUM-VQMM# 3 in Section 3.19.4.2).

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BO032-66

Refer to Standard Response FB-Response-LU-03.

Chapter 3.19 Cumulative Impacts have been revised in the Final EIR/EIS to provide more specific information on impacts to the Bakersfield Commons project. This specific information does not alter the significance conclusions stated in the Revised DEIR/Supplemental DEIS and would not trigger the need for recirculation of the Revised DEIR/Supplemental DEIS.

BO032-67

The Authority understands that the purpose of an EIR/EIS is to disclose the potential environmental impacts of project alternatives, and that information is provided in the Fresno to Bakersfield EIR/EIS. That is one reason why this EIR/EIS is so comprehensive. As described in the Authority's responses to specific comments in this and other comment letters, this submission does not provide substantial evidence that there are new significant impacts that have not been disclosed in the EIR/EIS, that there is substantial new information that must be added, that there are new mitigation measures that are not being adopted, or that there are new alternatives that must be evaluated. Accordingly, recirculation is not required.

BO032-68

Refer to Standard Response FB-Response-GENERAL-10, FB-Response-GENERAL-02.

The procedural requirements for NEPA and CEQA were followed during the environmental review of the Fresno to Bakersfield HST Section.

The 2005 Record of Decision based on the Authority and the FRA's 2005 Statewide Program EIR/EIS (see Section 1.5, Tiering of Program EIR/EIS Documents) selected the BNSF Railway route as the preferred alternative for the Central Valley HST between Fresno and Bakersfield. Therefore, the Project EIR/EIS for the Fresno to Bakersfield Section focuses on alternative alignments along the general BNSF Railway corridor. Further engineering and environmental studies within the broad BNSF corridor have resulted in practicable alternatives that meet most or all project objectives, are potentially feasible, and would result in certain environmental impact reductions in comparison to one another.

BO032-68

As discussed in Section 2.3.1 of the EIR/EIS, the Authority implemented an alternatives analysis process to identify the full range of reasonable alternatives for the project as required under 14 CCR 15126.6 and 40 CFR 1502.15(a). This range of alternatives was analyzed in the EIR/EIS.

The purpose of project alternatives is to minimize or avoid impacts. The Authority is considering three alternative downtown Bakersfield alignments and station locations. Each has a different set of impacts and avoids a different set of sensitive properties. However, given the constrained physical area available in which to site the HST in a developed urban area (keeping in mind the speed and alignment considerations for HST systems), it is not feasible to avoid all effects and an alternative that avoids one resource may affect another. The purpose of an EIR is to analyze and document the environmental impacts of a project. The fact that a project alternative will result in environmental impacts is not a violation of CEQA.

The effects of the three alternatives can be summarized as follows. The BNSF Alternative would displace six religious facilities, the Bakersfield High School Industrial Arts building, the Mercado Latino Tianguis, and 119 homes in the eastern portion of the city. In contrast to the corresponding segment of the BNSF Alternative, the Bakersfield South Alternative would not affect the Bakersfield High School campus or the Mercado Latino Tianguis. However, the alignment would displace five religious facilities, the Bethel Christian School, and 146 homes in east Bakersfield. The Bakersfield Hybrid Alternative would not affect the Bakersfield High School campus or the Bethel Christian School; however, the alignment would displace one religious facility, the Mercado Latino Tianguis, the Bakersfield Homeless Shelter, and 57 homes in east Bakersfield.

The station locations are designed primarily to tie into the existing transportation network. A downtown Bakersfield station would adjoin the existing Amtrak station, with connections to Golden Empire Transit bus service. In addition, the downtown Bakersfield station location was pursued at the earlier recommendation of the City of Bakersfield, Kern County, and the Kern COG.

Given the selection of the BNSF corridor as the preferred alignment with the 2005

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Record of Decision, the physical and design limitations of locating the train within or near the BNSF line in order to minimize effects on adjoining properties, continuation of the HST system eastward to Palmdale via Tehachapi along this line, and the intermodal connections available in downtown Bakersfield, selecting alternative routes and stations in Bakersfield that are in close proximity to one another (with varying impacts on sensitive properties) is a logical approach.

BO032-69

Refer to Standard Response FB-Response-GENERAL-02, FB-Response-GENERAL-10, FB-Response-GENERAL-25.

The procedural requirements for NEPA and CEQA were followed during the environmental review of the Fresno to Bakersfield HST Section. The downtown Bakersfield station alternatives adjoin the existing Amtrak station along the existing BNSF corridor in central Bakersfield. The alternatives are within convenient walking distance of the city and county offices, the convention center, the Marriott Hotel, Rabobank Arena, and other features. The 2002 Metropolitan Bakersfield General Plan encourages activities that will invigorate its downtown area. An HST station would do so by introducing the market force of thousands of new daily riders arriving and departing the station. While the General Plan is vague as to the location of an HST station, essentially deferring to additional studies, it does not exclude a downtown location.

Proposition 1A mandates that the project follow existing transportation corridors to the extent possible. All alternatives through the San Joaquin Valley would impact agricultural land and sensitive habitats, including alternative alignments along I-5 and SR 99. For example, in the screening analysis conducted for the Fresno to Bakersfield Section, alternatives along SR 99 had comparable impacts to Important Farmland as alternatives along the BNSF corridor (see Table 3-1, pages 3-4 and 3-5, Checkpoint B Summary Report on the Authority website). Alternative alignments within the BNSF corridor were selected to minimize farmland and sensitive habitat impacts and to take into account all other environmental impacts of the alternatives.

The alternatives analysis for the Fresno to Bakersfield Section included consideration of

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HST alignment and station locations in the vicinity of Golden State Highway and the Bakersfield Airport; however, the HST alignments and associated station locations were removed from consideration during the evaluation of alternatives process as UPRR alignment alternatives were judged to be impracticable and were not carried forward for further consideration. Please see Section 2.3, Potential Alternatives Considered During Alternatives Screening Process, and FB-Response-GENERAL-02 for more detail.

BO032-70

Refer to Standard Response FB-Response-GENERAL-02, FB-Response-GENERAL-25.

While the high displacement numbers cited for Bakersfield are correct, the impacts are not disproportionate. Greater numbers of displacements are expected in Bakersfield than other cities and communities in the study area for the Fresno to Bakersfield Section of the HST because the city is the largest and most urbanized, and because a station will be located there. Within the 0.5-mile area of the HST alternatives, there are 31,719 people in Bakersfield compared with 12,680 people in Fresno and 10,240 people in Corcoran.

The displacement of residential, business, and community facilities will be mitigated for because the Authority will comply with applicable federal and state laws and regulations, including the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. The act and its amendments provide guidance on how federal agencies, or agencies receiving federal financial assistance for a project, will compensate for impacts on property owners or tenants who need to relocate if they are displaced by a project. The Authority will compensate all property owners or tenants in accordance with this act, which applies to all real property. All benefits and services will be provided equitably without regard to race, color, religion, age, national origins, and disability, as specified under Title VI of the Civil Rights Act of 1964. The Relocation Assistance Program was developed to help displaced individuals move with as little inconvenience as possible and has commonly been used for large infrastructure projects that displace a large number of residences and businesses, such as the HST project, and is considered successful standard practice for mitigating the impacts to individual property owners.

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As presented in EIR/EIS Volume 1 Section 3.12, residential relocation effects of substantial intensity as defined by NEPA would occur in the Bakersfield Northwest and Northeast districts; see Impact SO#9. Although the alternatives through Bakersfield would displace and relocate considerable numbers of residences, adequate replacement housing is available and the project would not necessitate the construction of substantial numbers of replacement housing units. Therefore the impact would be less than significant under CEQA.

As presented in Volume I Section 3.12, commercial and industrial business displacement effects of substantial intensity as defined by NEPA would occur in the Bakersfield Central and Northeast districts; see Impact SO#10. In accordance with CEQA Guidelines, no significance criteria are applied for economic impacts, and as a result are not applied to business displacement; see subsection 3.12.4.

BO032-72

Refer to Standard Response FB-Response-GENERAL-02, FB-Response-GENERAL-10, FB-Response-GENERAL-25.

As stated in Section 3.13.5.3, in metropolitan Bakersfield, the BNSF Alternative follows the BNSF Railway through a densely developed residential area from Hageman Road to Coffee Road (Northwest District), where there is already an incompatibility between the existing freight rail line and residential uses. This incompatibility would be enhanced by the HST because the project would increase the intensity of the use of the land, and it would be incompatible with adjacent residential land uses.

The FRA and the Authority developed project-specific alignment and station alternatives that conformed to the preferred alternative identified in the Statewide Program EIR/EIS. The preferred alignment and stations identified in the document were general in nature, since design criteria for the HST system had not been fully developed. The Authority prepared screening evaluation reports to review potential alignment alternatives, including alternatives extending north of Bakersfield. The preferred alternative identified in the Statewide Program EIR/EIS specifies a station location in downtown Bakersfield near the existing Amtrak station on the BNSF Railway line. Both Kern County and the

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City of Bakersfield adopted resolutions in 2003 supporting the downtown Bakersfield HST station. HST operations impose design requirements that do not always fit within the alignment of the existing transportation corridors and therefore cannot feasibly be built solely within those corridors. Existing corridors are not sufficiently straight, nor are their curve radii long enough to support high-speed operation along their full lengths and in many cases cannot maintain the speeds necessary to meet the Prop. 1A travel time requirements. In addition, during various screening processes, including Checkpoint B, it was determined that by entering Bakersfield from the west along the BNSF Corridor instead of the UPRR Corridor, the HST would result in far fewer relocation impacts and would be more consistent with current and planned land uses.

BO032-73

Refer to Standard Response FB-Response-GENERAL-02.

The procedural requirements for the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) were followed during the environmental review of the Fresno to Bakersfield Section of the HST System. A reasonable range of alternatives includes alternatives that reduce one or more of the project's impacts. The three alternative alignments through Downtown Bakersfield have different impacts on adjoining properties. The alternatives focus on the BNSF Railway (BNSF) corridor, consistent with the preferred project identified in the 2005 Record of Decision, based on the 2005 Statewide Program EIR/EIS (Authority and FRA 2005). The physical area available in which to site the HST project in this developed urban area is constrained. The Authority has attempted to minimize impacts by staying in the train alignment to the extent practical, but design considerations for HST systems (including speed and track geometry) make it infeasible to avoid all effects.

An alternative that avoids or reduces an impact on one resource along a constrained corridor may nonetheless adversely affect another resource. The three alternative routes through Downtown Bakersfield have distinct ranges of impacts. The BNSF Alternative would displace six religious facilities, the Bakersfield High School Industrial Arts building,

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the Mercado Latino Tianguis, and 119 homes in the eastern portion of the city. In contrast to the corresponding segment of the BNSF Alternative, the Bakersfield South Alternative would not affect the Bakersfield High School campus or the Mercado Latino Tianguis. However, this alternative would displace five religious facilities, the Bethel Christian School, and 146 homes in east Bakersfield. The Bakersfield Hybrid Alternative would not affect the Bakersfield High School campus or the Bethel Christian School. However, this alternative would displace one religious facility, the Mercado Latino Tianguis, the Bakersfield Homeless Shelter, and 57 homes in east Bakersfield.

The purpose of an EIR is to analyze and document the environmental impacts of a project. The fact that a project alternative will result in environmental impacts or that the alternatives are in proximity to one another is not a violation of CEQA or NEPA.

BO032-74

Refer to Standard Response FB-Response-GENERAL-01, FB-Response-GENERAL-05, FB-Response-SO-04.

As discussed in the standard responses, the Authority will adopt specific mitigation measures with the intention of reducing impacts on adjoining communities.

An EIR/EIS must examine a reasonable range of alternatives. However, neither the California Environmental Quality Act (CEQA) nor the National Environmental Policy Act (NEPA) requires that an EIR/EIS include alternatives to avoid every environmental impact (*Cherry Valley Pass Acres and Neighbors v. City of Beaumont* [2010] 190 Cal.App.4th 316 [EIR need not include an alternative for every impact]).

BO032-75

Refer to Standard Response FB-Response-SO-03.

The Authority disagrees with this comment, the Revised DEIR/Supplemental DEIS Volume I Section 3.12 SO-11 states that all three of the alternatives through Bakersfield would have a significant impact because of commercial and industrial business relocations. Table 3.12-12 shows the total of commercial and industrial relocations by area under the BNSF Alternative. The table shows that the relocations in the Central

BO032-75

and Northeast districts of Bakersfield are greater than in the Northwest district. This does not mean that the displaced businesses in the Northwest district will not receive the services described in the relocation mitigation plan to minimize impacts.

BO032-76

Refer to Standard Response FB-Response-LU-03, FB-Response-LU-04, FB-Response-AVR-01, FB-Response-AVR-02, FB-Response-AVR-03.

The EIR/EIS identifies the project's impacts on Bakerfield communities, as noted in the comment. The project would not place a solid barrier up to 90 feet in height adjacent to neighborhoods. As described in Chapter 2, elevated portions of the track would be on viaducts of varying height, up to 90 feet. Viaducts are not solid barriers and allow existing road connections to be retained. Sound walls, where necessary, would be built atop the viaducts and as a result would not be a barrier to movement.

The EIR/EIS will have a visual impact and elevated viaducts do create a visual barrier. Mitigation measures will be applied to reduce that impact, as discussed in Standard Response FB-Response-AVR-03.

Note that the comment cites principles that are part of the City's General Plan Update. The City has not adopted the update to its Metropolitan Bakersfield General Plan, so those specific principles are proposed, not official.

BO032-77

As stated in Section 3.13.5.3, High-Speed Train Alternatives, of the EIR/EIS, all three Bakersfield station alternatives overlap and would have similar impacts. The station in Bakersfield would convert commercial, industrial, and community facility uses to transportation uses. The station would not substantially change the pattern and intensity of the use of the land, but it would be incompatible with many adjacent land uses. The cities of Fresno and Bakersfield already have existing general plan policies promoting higher-density downtowns, have undertaken redevelopment activities to help revitalize their downtowns, and are considering stronger general plan policies that would promote mixed uses near the HST stations (e.g., Fresno's draft *Downtown Neighborhoods Community Plan*, in progress as of September 2011 [City of Fresno 2011]). The San

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Joaquin Valley Blueprint generally encourages higher-density development near the stations of the proposed HST System (San Joaquin Valley Regional Policy Council 2010). The “sustainable communities strategies” or “alternative planning strategies” to be adopted by the Metropolitan Planning Agencies in Fresno, Kings, Tulare, and Kern counties pursuant to Senate Bill (SB) 375 (2008) are expected to include policies and transportation funding incentives that will encourage compact development patterns to meet the region’s greenhouse gas reduction targets for automobiles and light trucks (5% by 2020, 10% by 2035).

The Bakersfield Station could potentially increase land use densities and transit-oriented development (TOD) in downtown Bakersfield, which would be consistent with local plans and policies. The alternative station sites are consistent with HST transportation planning in Bakersfield, and were identified as the preferred locations for the station in past resolutions by the City of Bakersfield, Kern County, and the Kern County Council of Governments, although the present city administration is not in favor of the project. The land use effect of the Bakersfield Station would have substantial intensity under the National Environmental Policy Act (NEPA), and the impact would be significant under the California Environmental Quality Act (CEQA).

The City of Bakersfield has adopted redevelopment plans for the HST station area in Bakersfield. The HST stations would induce desired residential and commercial infill development by providing an economic driver for such development. HST station development would not affect planned development in Bakersfield because those developments are planned for the station study area edges and include higher-density residential uses that would be compatible with TOD around the station. Indirect effects on surrounding land uses are considered to have moderate intensity under NEPA because the HST station may induce growth, but that growth would be consistent with applicable plans. As stated in Section 3.13.5.3, High-Speed Train Alternatives, indirect impacts would be less than significant under CEQA because land use changes would be compatible with adjacent land uses. Indirect effects on surrounding land uses would be beneficial, encouraging more efficient land use patterns that are consistent with Bakersfield's planning goals.

BO032-78

As stated in Section 3.13.5.3, indirect land use effects of the alternative alignments would not change the pattern or intensity of adjacent land uses. Direct effects to land uses are described in Section 3.13.5.3.

As stated in Section 3.13.5.3, the project would require acquisition of land that is not currently in transportation uses; however, it would not change existing adjacent land uses except possibly at the Kings/Tulare Regional Station alternative sites. The HST tracks and supporting facilities would not inhibit continuation of existing uses on adjacent lands, nor would they induce growth. In Bakersfield, much of the BNSF, Bakersfield South, and Bakersfield Hybrid alternatives are adjacent to the BSNF Railway and UPRR. However, portions of all three alternatives cross lands designated and zoned for residential, commercial, and community facilities uses. Therefore, the Bakersfield South and Bakersfield Hybrid alternatives would not be consistent with land use plans and policies in these areas. The permanent conversion of land for the project would result in a significant land use impact under CEQA.

In metropolitan Bakersfield, the BNSF Alternative follows the BNSF Railway through a densely developed residential area from Hageman Road to Coffee Road, where there is already an incompatibility between the existing freight rail line and residential uses. This incompatibility would be enhanced by the HST because the project would increase the intensity of the use of the land, and it would be incompatible with adjacent residential land uses. From Coffee Road to SR 99 east of the Kern River, the BNSF Alternative would convert industrial and commercial uses to transportation uses. In this area, the project would increase the intensity of the use of the land, but it would be compatible with adjacent land uses and with existing land use plans and policies.

East of SR 99 to the project terminus at the Bakersfield HST station, the BNSF Alternative remains close to the BNSF Railway; however, the existing freight rail is not compatible with many adjacent land uses in this area, including Bakersfield High School, community facilities flanking Truxtun Avenue, and the newly redeveloped Mill Creek area. The BNSF Alternative would enhance this incompatibility by converting residential, commercial, and community facility uses and intensifying the transportation use of the area. East of the Bakersfield HST station to Oswell Street, the BNSF Alternative would convert residential, commercial, and industrial uses to transportation uses. The project

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would increase the intensity of the use of the land and would be incompatible with adjacent land uses. However, the project would not change existing adjacent land uses.

As stated in Section 3.13.5.3, construction of the project on any of the alignment alternatives would temporarily use approximately 2,000 acres of land outside of the permanent footprint of project to provide for facilities for construction staging, laydown, and fabrication areas. The temporary acreage used by the HST on the Bakersfield Commons property would be used for construction staging.

BO032-79

Refer to Standard Response FB-Response-AVR-03.

As described in Section 3.16.3.2 of the Revised DEIR/Supplemental DEIS, under the FHWA methodology applied in the study, the project would substantially degrade the existing visual character or quality of a site and its surroundings if it would cause a decline in visual quality of two levels in the context of moderate or greater viewer response; or if it would cause a decline in visual quality of one level in the context of high viewer response. This would occur under the BNSF Alternative and Bakersfield South Alternative. The Revised DEIR/Supplemental DEIS further states that although some of the significant visual impacts could potentially be mitigated to less than significant levels, if the effectiveness of site-specific mitigation is uncertain, the residual impact is assumed to be significant.

As stated in 3.16.5.3, in the area of the Bakersfield Commons, the project would degrade the existing visual character or quality of the site and its surroundings from moderate to moderately low, and this would thus be an effect of moderate intensity under NEPA and a significant impact under CEQA.
AVR-MM#2a, 2b, and 2f include coordination with local jurisdictions to further refine mitigation measures for visual impacts. It is not feasible for the Authority to negotiate with individual property owners. However, coordination with local jurisdictions would involve the community to determine context-sensitive mitigation measures for visual and esthetic impacts.

Mitigation Measure AVR-MM#2a, Action Bullet 5 applies to structures, which includes

BO032-79

elevated guideways and no change to this mitigation is required.

As stated in 3.19, CUM-VQ-MM#3 would require the Authority to coordinate with local jurisdictions to provide information about the project design so that the local plans and proposed development projects that could be adversely affected by the HST alternatives, as described above, could be modified and potential visual impacts to high-sensitivity viewers could be reduced. Therefore, no change to this mitigation measure is required.

Although AVR-MM#2f includes maintenance of landscaping treatments, the Authority can only conduct maintenance activities on lands under their ownership. Individual landowners would be responsible for maintenance on lands under their ownership. Therefore, no change to this mitigation measure is required.

AVR-MM#2e applies to areas where high-sensitivity receptors are located, such as rural residential areas. Bakersfield Commons is located within an urbanized area. Additionally, Bakersfield Commons is a mixed use commercial and residential project and not solely a residential project. Therefore, it is not anticipated that residents would harbor expectations that they are residing in a rural residential area when they choose to live at Bakersfield Commons. Therefore, no change to this mitigation measure is required.

BO032-80

The Final EIR/EIS has been updated to provide additional information regarding localized impacts from construction emissions. The High Speed Train (HST) project will include several different types of construction activities that will occur in numerous locations along the Fresno to Bakersfield portion of the project. These activities include site mobilization, demolition, land clearing, earth moving, construction of road over and under crossings, construction of track for at grade, retained fill, and elevated structures, construction of stations, construction of Heavy Maintenance Facility (HMF) and Maintenance of Way Facility (MOWF) facilities, construction of power systems including Traction Power Supply Station (TPSS), Switching Power Supply Station (SPSS), and Paralleling Power Supply Station (PPSS).

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Based on the construction activities, it was determined that the following types of construction sites are likely to occur:

- Construction of a portion of the Rail Segment
- Construction at each of the proposed stations
- Construction of the HMF and MOWF facilities
- Construction of the TPSS
- Construction of the SPSS
- Construction of the PPSS
- Construction of Road over or under crossings
- Operation of Concrete Batch Plants to support construction

Each of these types of construction sites was evaluated independently of each other. All of the construction emissions were allocated to a construction site type and allocated based on the number of individual sites of a specific type. After appropriate mitigation was applied to the construction emissions, there were no significant increases in localized air quality impacts from increased ambient air concentrations or health impacts. The details of this analysis are in Appendix H of the Fresno to Bakersfield Air Quality Technical Report (Authority and FRA 2012f).

Ozone and its precursors are classified as regional impacts due to the atmospheric transport and chemical conversions that take place over long distances and time scales. Therefore they are not analyzed in terms of localized impacts. Furthermore, the project will be offsetting to zero any ozone precursor emissions above the General Conformity Rule de minimis thresholds under the VERA entered with the San Joaquin Air Pollution Control District. Per SJVAPCD guidance (SJVAPCD 2012), emissions off-set through a VERA are deemed to reduce the project emissions to less than significant.

BO032-81

Mitigation Measure AQ-1 does specify a minimum amount of improvement by stating "in no case less clean than the average fleet mix, as set forth in CARB's OFFROAD 2007 database." Mitigation Measure AQ-2 has been revised to specify a minimum amount of improvement "but no less than the average fleet mix as set forth in CARB's EMFAC 2011 database."

BO032-82

Refer to Standard Response FB-Response-AQ-04.

BO032-83

In Section 3.3.6.3, Impact AQ #11, of the Final EIR/EIS, the text states "For projects to have a less than significant impact on an individual and cumulative basis, the project must comply with an approved Climate Change Action Plan, demonstrate that it would not impede the state from meeting the statewide 2020 GHG emissions target, adopt the SJVAPCD's Best Performance Standards for stationary sources, or reduce or mitigate GHG emissions by 29%." If any one of the criteria mentioned is satisfied, then the project is less than significant. The HST project is a specific measure in the AB 32 scoping plan (Measure #T-9) and therefore satisfactorily demonstrates that it would not impede the state from meeting the 2020 GHG emissions target, inasmuch as it is one of the strategies specifically mentioned in the analysis of how the state is going to meet the 2020 GHG emissions target.

BO032-84

The localized impact analysis of the HMF was done using a conservative screening air dispersion modeling and health risk assessment based on a prototypical configuration since at this stage of the engineering design more detailed site-specific information is not available. The details of this analysis are found in *Appendix F of the Fresno to Bakersfield Air Quality Technical Report*. This includes a comparison to the ambient air quality standards and health impacts (acute hazard index, chronic hazard index, and cancer risk). CHSRA will work with the SJVAPCD on the HMF permit conditions and detailed site specific health risk assessment, once the HMF site is selected and detailed engineering design is completed, which will be made following certification of the San Jose to Merced Final EIR/EIS. AQ-MM #6 has been modified to provide a specific

Response to Submission BO032 (George J. Mihlsten, Coffee-Brimhall, LLC (Atty. For) Latham & Watkins, LLP, October 19, 2012) - Continued

BO032-84

trigger mechanism (prior to issuance of the authority to construct the HMF facility) for determining details on the final HMF emissions and emission reduction strategies to be utilized that will result in a cancer risk less than 10 in a million to sensitive receptors, a chronic hazard index of 1 or less, and an acute hazard index of 1 or less. The emissions and emission reduction strategies will result in concentrations below ambient air quality standards or the SJVAPCD acceptable incremental increase used in SJVAPCD's permitting ambient air quality analysis.

BO032-85

N&V-MM#1 includes performance standards for required reductions of construction noise. N&V-MM#1 also includes the provision of additional noise control measures as needed to meet noise limits. Therefore, noise controls measures will be selected for their effectiveness in reducing construction noise to the required standards.

BO032-86

As stated in 3.4.3.3, the construction noise assessment in the Revised DEIR/Supplemental DEIS is based on guidelines included in the FTA guidance manual (FTA 2006), as well as consideration of local noise ordinances. The construction noise impacts were analyzed using FTA noise assessment criteria, including criteria for construction activities that extend over 30 days near any given receiver. As shown in Table 3.4-1 and 8-4, the criteria for long-term construction noise impacts to residential uses in urban areas with very high ambient noise levels (L_{dn} greater than 65 dB), considers an impact significant if L_{dn} from construction operations exceeds existing ambient + 10 dB. Impacts to commercial and industrial uses are analyzed using a 24-hour L_{eq} (equivalent sound level), not L_{dn} (day-night sound level), with limits of 80 and 85 dBA, respectively.

As stated in 8.2 of the Noise and Vibration Technical Report, there are no standardized construction noise criteria from the FTA, or FRA, for assessing noise impacts at sensitive receivers due to construction. The FRA Manual does outline general assessment and detailed assessment criteria if local ordinances and standards are not in place. Local ordinances and standards will always have precedence over the "reasonable guidelines" established by the FRA. A summary of the local construction noise standards and construction noise exemption times for all of the counties and cities

BO032-86

that may be impacted by the high speed train project can be found in Table 8-3. Construction noise in the city of Bakersfield is exempt from local noise standards on weekdays from 6:00 a.m. to 9:00 p.m. and on Saturday and Sunday from 8:00 a.m. to 9:00 p.m. A majority of construction will be conducted during these construction noise exempt times, but when construction is conducted outside of the construction noise exempt times, construction noise must abide by local noise standards and proper mitigation is included in the Revised DEIR/Supplemental DEIS to avoid noise impacts at nearby noise-sensitive receivers.

BO032-87

During construction the contractor will monitor construction noise to verify compliance with the noise limits as shown in Table 3.4-1 of the Final EIR/EIS. The contractor would be given the flexibility to meet the FTA construction noise limits in the most efficient and cost-effective manner. As stated in N&V-MM#1, noise control mitigation measures will be implemented as necessary including installing temporary construction site sound barrier near a noise source, using moveable sound barriers at the source of the construction activity avoiding nighttime construction in residential neighborhoods, and using an auger to install the piles instead of a pile driver. The Authority will coordinate with local jurisdictions to reduce construction noise impacts and will consider the establishment of a noise hotline and community liaison to address noise complaints.

BO032-88

Refer to Standard Response FB-Response-N&V-03.

The Ldn metric is used per FRA guidelines. The Ldn metric still takes into account the noise generated by trains throughout a 24-hour period despite the lack of trains from 12:00 a.m. to 6:00 a.m.

BO032-89

The CNEL metric is commonly used in California. As you stated, CNEL and Ldn values are typically within 1 dB of each other. CNEL is not used nationally, and therefore, the Ldn metric is used because impact categories are defined according to FTA and FRA

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guidance.

Noise is evaluated using models. The existing noise levels were determined throughout the corridor by taking direct field noise measurements at certain noise-sensitive receivers, following the FRA methodology. Noise measurements were taken at specific noise-sensitive locations near the alignment in the study area that were considered representative of conditions throughout the study area (see Figures 3.4-4 through 3.4-8 in the EIR/EIS). Specific measurement locations were selected based on their physical relationship to existing noise sources, such as major roads. Noise levels measured at these locations are representative of certain existing noise conditions and are applied to several neighborhoods with similar noise sources. Dominant existing noise sources in the study area were first determined by field observations and then confirmed by measurement data results, which indicated which noise events were the greatest contributors to the existing measured noise levels. Refer to Section 3.4.4, Affected Environment, for further information on noise measurement locations. The FRA and FTA noise criteria are based on a comparison of existing noise levels to future noise levels with the addition of project noise sources. The criteria are defined using a sliding scale in which there is greater potential for impact in areas where existing noise levels are quieter (i.e., rural areas) and less potential for impact where existing noise levels are higher (i.e., suburban and urban areas) because it requires less noise from the project to increase noise levels in the quieter areas.
But the sliding scale also allows a larger increase in noise levels in the quieter areas than in areas with higher existing noise levels. The justification is that people already exposed to high levels of noise should be expected to tolerate only a small increase in the amount of noise in their community.

For project noise levels, all the noise sources during a train pass-by are combined to provide the model with a single reference noise level for a train pass-by. FRA and FTA methods take this single reference noise level and, using the number of trains per hours during daytime and nighttime, use it to compute either the peak-hour noise level or the Ldn (Day and Night Level) noise level. The peak-hour noise level is used to identify noise levels at places that are used primarily for daytime activities, such as schools and parks. The Ldn is used to identify noise levels at places with sleep-related activities, such as homes, apartments, hospitals, and hotels. The Ldn adds a 10-dBA penalty to

BO032-89

the hours between 10 p.m. and 7 a.m. to account for people being more sensitive to noise during these hours.

Noise impact categories are defined according to FTA and FRA guidance. A severe noise impact is where the change in cumulative noise level (existing plus project noise) would be noticeable to most people and likely to generate strong, adverse reactions. A moderate noise impact is where the change in cumulative noise level would be noticeable to most people, but may not be sufficient to generate strong, adverse reactions. The Lmax is the maximum noise level for a particular event. The FRA noise impact assessment methodology is not based on Lmax, but rather on cumulative noise descriptors, which take into account how loud each event is, how long each event lasts, and, for land use categories where people sleep (including residences), how many events occur each day (including nighttime events).

Reference levels at a particular distance and train speed are adjusted based on (1) the actual distances for each receiver along the corridor and (2) the actual train speeds at that location (both through trains and trains that may stop at additional stations). For example, because HSTs are powered electrically rather than by diesel engines (which are louder), an HST has to achieve a speed of 150 miles per hour (mph) before it makes as much sound as a commuter train at 79 mph. The duration of the sound is also different; an HST moving at 220 mph would only be heard for about 4 seconds, while a typical freight train traveling at 30 mph can be heard for 60 seconds.

BO032-90

No HMFs or maintenance-of-way facilities are located in the area of Bakersfield Commons. As stated in 2.6.2, the Authority would regularly perform maintenance along the track and railroad right-of-way as well as the power systems, train control, signalizing, communications, and other vital systems required for the safe operation of the HST system. The track at any point would be inspected several times a week using measurement and recording equipment aboard special measuring trains, which would be of similar design to the regular trains but would operate at a lower speed. They would run between midnight and 5 a.m. and would usually pass over any given section of track once in the night. Most adjustments to the track and routine maintenance would be accomplished in a single night at any specific location with crews and material brought

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by work trains along the line. When rail resurfacing is needed, perhaps several times a year, specialized equipment would pass over the track sections at 5-10 mph. Approximately every four to five years, ballasted track would require sections of more intensive maintenance of the track and structure using a train with a succession of specialized cars to raise, straighten, and tamp the track, and using vibrating “arms” to move and position the ballast under the ties. The train would typically cover a mile-long section of track in the course of one night’s maintenance. Slab track, which is expected to comprise track at elevated sections, would not require this activity. No major track components are expected to require replacement through 2035. Other maintenance of the right-of-way, aerial structures, and bridge sections of the alignment would include drain cleaning, vegetation control, litter removal, and other inspection that would typically occur monthly to several times a year. Therefore, noise from rail maintenance activities would be much lower than noise generated from operation of the HST.

BO032-91

Impacts from construction roadway hazards are analyzed in 3.2.5.3 and 3.11.5.3. As stated in 3.2.5.3, the HST would also be grade-separated across roadways throughout the corridor (including new freight rail separations) and these separations would improve pedestrian and bicycle safety.

Impacts resulting from hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses are discussed in 3.11.5.3, Impact S&S #5 – Motor Vehicle, Pedestrian, and Bicycle Accidents Associated with HST Operations of Section 3.11, Safety and Security, of the Final EIR/EIS. All improvements or changes to roads resulting from the project will meet design standards, and safety hazards will not be increased by the project. Farm equipment will continue to be able to utilize local roads the same as with the existing condition if the equipment meets applicable vehicle codes.

BO032-92

Refer to Standard Response FB-Response-GENERAL-08.

As stated in 2.9, as a state agency, the Authority is exempt from local permit requirements; however, in order to coordinate construction activities with local jurisdictions, the Authority will seek local permits as part of construction processes

BO032-92

consistent with local ordinances. Depending on the HST guideway type at crossings, the HST guideway would require construction easements; easement for columns within a city, county, or state facility; or modification of overcrossings or interchanges. All elevated facilities would be designed to meet jurisdiction standards for features located within a roadway area.

As discussed previously, impacts from construction roadway hazards are analyzed in 3.2.5.3 and 3.11.5.3. As stated in 3.2.5.3, the HST would also be grade-separated across roadways throughout the corridor (including new freight rail separations) and these separations would improve pedestrian and bicycle safety. Impacts resulting from hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses are discussed in 3.11.5.3, Impact S&S #5 – Motor Vehicle, Pedestrian, and Bicycle Accidents Associated with HST Operations of Section 3.11, Safety and Security, of the Final EIR/EIS. All improvements or changes to roads resulting from the project will meet design standards, and safety hazards will not be increased by the project. Farm equipment will continue to be able to utilize local roads the same as with the existing condition if the equipment meets applicable vehicle codes.

BO032-93

Refer to Standard Response FB-Response-SO-01.

As stated in 3.8.5.3, all alternatives would disturb ground during construction and result in the potential for changes in stormwater runoff patterns, including through grading, construction of laydown and staging areas, construction of piers in floodways and water channels, and/or at-grade stream crossings. Temporary changes to stormwater drainage patterns and runoff would be minimal and have an effect with negligible intensity under NEPA and a less-than-significant impact under CEQA because existing discharge locations would be maintained following the completion of construction. The project includes the preparation of plans, including a SWPPP. The Construction SWPPP will include measures to address hydromodification management to ensure maintenance of pre-project hydrology by emphasizing onsite retention of stormwater runoff using measures such as flow dispersion, infiltration, and evaporation, supplemented by detention, where required. Additional flow control measures will be implemented where local regulations or drainage requirements dictate.

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Additionally, as stated in3.6.5, the permanent project footprint in some places would be located where current utility lines, including stormwater drainage facilities, exist. At some locations, current utility infrastructure will be upgraded and/or extended to serve the HST System. Utilities within the permanent project footprint would be either relocated outside the restricted access areas of the HST right-of-way, or they would be modified to avoid the conflict.

The HST may conflict with existing stormwater retention ponds and basins; without taking the appropriate measures to reduce these conflicts, this is potentially an impact with moderate intensity under NEPA, and a significant impact under CEQA. However, the Authority will replace any stormwater basin capacity lost through HST construction. Preliminary engineering has confirmed the feasibility of either avoiding impacts on existing stormwater basins, or relocating the stormwater basins within the HST construction footprint. Because any loss in capacity at the existing retention ponds would be restored within the existing utility footprint, as feasible, or the HST alignment would be modified to avoid impacts, the impact would be reduced to a level of negligible intensity under NEPA, and to a less-than-significant impact under CEQA. Therefore, specific mitigation measures as recommended in the comment are not required as the existing mitigation measure will reduce the impact to less than significant.

BO032-94

Section 3.6, Public Utilities and Energy, page 3.6-50, states that as standard construction practice, the contractor would divert construction and demolition waste from landfills by reusing or recycling to aid with implementing the Local Government Construction and Demolition (C&D) Guide [Senate Bill 1374] and to meet solid waste diversion goals to the extent practicable. The contractor would either segregate and recycle the waste at a certified recycling facility or contract with an authorized agent to collect mixed (not segregated) waste and dispose of it at a certified recycling facility.

The 2010 Green Building Standards Code requires every city and county in California to develop a waste management plan and divert at least 50% of the construction materials generated (CalRecycle 2012). Reuse and recycling of HST C&D material could divert as much as 50% of the solid waste from landfills. The landfills to which C&D material from

BO032-94

the project would be sent have not been identified. Each landfill has specific requirements regarding the acceptance of hazardous wastes and C&D material that may influence the selection of disposal sites. Although three active landfills in the region accept C&D material, other regional facilities, such as those that serve the city of Fresno, may be used for waste disposal. Tables 3.6-7 through 3.6-9 identify landfills serving the project area.

Section 3.6, Public Utilities and Energy, page 3.6-69 states that under the Resource Conservation and Recovery Act and AB 939, affected county or municipal solid waste disposal facilities are required to plan for non-hazardous solid waste facility expansions, or addition from all anticipated sources. The anticipated disposal of non-hazardous solid wastes to landfills due to HST operation would not alone trigger the need for new or expanded facilities beyond dates that disposal capacities of affected facilities are currently projected to be reached.

BO032-95

Refer to Standard Response FB-Response-GENERAL-03.

The analysis of growth impacts involves modeling, using reasonable assumptions about future trends, to develop reasonable projections. Growth projections were made at a county-wide level and are not as detailed as the analysis of direct impacts. The analysis by Cambridge Systematics, Inc., indicated that with the HST System, there would be a small (approximately 3%) incremental increase in population growth compared with the forecasted growth in the Central Valley (Cambridge Systematics 2007). Under the No Project Alternative, the populations of Fresno, Kings, Tulare, and Kern counties are projected to increase by over 59%, 75%, 80%, and 81%, respectively, between 2010 and 2035. When compared with the No Project Alternative, the HST alternatives would only slightly raise the projected population growth beyond what local infrastructure will have to accommodate in the future, and the HST project would encourage higher-density development in the vicinity of station locations. The analysis of current general plans of cities and counties in the region found that the cities have enough area within their current spheres of influence to accommodate the planned growth to 2035 as well as the HST-induced growth. Therefore, accommodating HST-induced growth would not impose an additional burden of future farmland conversion or future extension of public

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BO032-95

infrastructure beyond what is currently planned.

BO032-96

The maximum amount of impact on habitat was considered when determining pre-mitigated project effects. The act of avoiding sensitive or natural habitat disturbance during placement of temporary construction areas will reduce the actual amount of impact to less than significant. Habitat will be avoided to the extent feasible, which would serve to allow for scenarios when avoidance is impossible due to other environmental factors. Furthermore, the avoidance of sensitive or natural areas is not the sole mitigation for these impacts; numerous mitigation measures for impacts on habitat are presented in Section 3.7.9, which, when combined, serve to reduce the level of effect or impact.

BO032-97

The statement referenced refers to the cumulative effect of the entire project on community division in a regional context, however Volume I Chapter 3.12 Impact SO #6 details the varying degree of disruption to community cohesion along each community along the Fresno to Bakersfield HST Section. The portions of the HST alternatives that would be along existing transportation corridors would not introduce a new barrier in a community, but could widen an existing community division. As stated in Impact SO #6, where the alternative would not be along existing transportation corridors (including the Northwest District of Bakersfield), impacts to community interactions and cohesion are identified and described as substantial under NEPA and significant under CEQA.

BO032-98

Only local agencies have the authority to amend their planning documents. Therefore, the HST Authority would not be able to make any land use decisions as it has no authority to do so.

BO032-99

Refer to Standard Response FB-Response-GENERAL-01.

BO032-99

As described in Standard Response FB-Response-GENERAL-03 (HST and Growth in the San Joaquin Valley – Measures to Realize Densification Benefits of HST – Role of Local Governments/Station Area Cities and Counties in Making it Happen), the Authority recognizes that land use is within the purview of local government and that the Authority cannot dictate local land use decisions. The cited mitigation measure is to ensure that the Authority coordinates with local jurisdictions on changes to their land use plans, if they decide to amend them in response to the HST project.

This measure is only a portion of the mitigation identified for visual impacts. Additional, specific mitigation measures are set out in Section 3.16, Aesthetics and Visual Resources, that provide for context-sensitive solutions in the design of elevated guideways, integrating and screening elevated guideways in relation to adjoining uses, and providing landscaping on any fill overpasses (see Mitigation Measures AVR-MM#2a through #2g). Taken in combination, these measures will reduce the impact of the guideway on future uses.

Given the size of the guideway and its location, there are limited available mitigations for visual impacts. The measures identified here are feasible approaches to soften the effect of the project on adjoining future uses in Bakersfield Commons, but the impact cannot be fully avoided and remains significant (see Impact AVR #4d and Table 3.16-5 in Section 3.16).

BO032-100

The Fresno to Bakersfield Section is over 100 miles in length. Providing site-specific illustrations of city and county land use plans for the entire length of the alternative alignments is not reasonable for an area of that size. The general plans for the areas around the alternative station sites are illustrated in Figures 3.13-1 though 3.13-8 in Section 3.13, Station Planning, Land Use, and Development, in the EIR/EIS.

The location and amount of development anticipated by general plans in the study area is referenced in the Revised DEIR/Supplemental DEIS, where applicable specific information about how and where growth would occur is available by referring to the respective general plans, which are publicly available.

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BO032-100

As previously discussed, the Revised DEIR/Supplemental DEIS uses a combined plan and list approach to define the cumulative scenario. The use of both general plans and project lists for projecting future conditions is an acceptable approach under CEQA. However, actual development is dependent largely on the economy, which fluctuates throughout the course of a general plan's life cycle.

As described in Standard Response GENERAL-03 (HST and Growth in the San Joaquin Valley – Measures to Realize Densification Benefits of HST – Role of Local Governments/Station Area Cities and Counties in Making it Happen), despite the current economic downturn substantial growth is projected to occur in the San Joaquin Valley over the next several decades. For example, the California Department of Finance's (DOF's) Population Projections for California and Counties (DOF 2013) anticipate that Fresno County's population will increase by 394,217 persons between 2010 and 2035, and during the same period Kern County will add 643,531 residents, Kings County will add 67,058 residents, and Tulare County will add 238,956 residents. The analysis of current general plans of cities and counties within the region found that the cities have enough area within their current spheres of influence to accommodate the planned growth to 2035 as well as the HST-induced growth. Although the recent changes in the economy have slowed this growth, the general long-term trends are expected to continue because the region attracts people seeking affordable housing, and the cities of Fresno and Bakersfield are the main economic centers.

Cumulative impacts are assessed based on the combined effects of the HST alignments, together with the implementation of the cumulative projects. Cumulative impact analysis must consider "reasonably probable future projects." Neither CEQA nor NEPA limits consideration of known projects that are expected to contribute to the cumulative impact based on the year of project opening. That approach would negate the requirement to examine reasonably probable future projects.

The EIR/EIS relies on the existing general plans, augmented by known future projects, to describe the cumulative impact to which the project would contribute. Rather than artificially inflating cumulative impacts, this approach may be an underestimate of actual impacts. The analysis cannot account for future projects that are not known and cannot be known at this time without resorting to speculation because California Planning Law

BO032-100

(Government Code Section 65300 et seq.) authorizes a city or county to amend its general plan three times yearly. Unless long-term trends unexpectedly reverse themselves, future amendments that may contribute to cumulative impacts will inevitably be proposed during build-out of the city and county general plans. To the extent that such amendments are approved, cumulative impacts may be greater than can be known at this time. The EIR/EIS has made a good faith effort at disclosure of cumulative impacts based on the information that is reasonably available.

Regardless of whether the general plans are fully built out by 2035, the overall severity of cumulative impacts described in the Revised DEIR/Supplemental DEIS would likely not change, given the growth trends in the region.

BO032-101

Chapter 3.19 Cumulative Impacts have been revised in the Final EIR/EIS to provide more specific information on impacts to the Bakersfield Commons project. This specific information does not alter the significance conclusions stated in the Revised DEIR/Supplemental DEIS and would not trigger the need for recirculation of the Revised DEIR/Supplemental DEIS.

BO032-102

Refer to Standard Response FB-Response-TR-01.

Cumulative construction-related traffic impacts would depend on the timing of the specific cumulative projects in close proximity to one another. The project would not result in an increase in vehicular traffic beyond temporary increases.
As described in Section 3.2.5.3, High-Speed Train Alternatives (and analyzed in Section 5.4 under future year 2035 in the Transportation Analysis Technical Report), these construction impacts are based on a worst-case assessment that addresses cumulative traffic during peak hours. During design and construction of the HST alternatives, the Authority and FRA will implement design features, in close consultation with the pertinent city or county, to reduce associated transportation delays. Also, trips for construction workers would be limited during peak hours for freeway and street traffic.

As a result, the project would not make a cumulatively considerable contribution to

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cumulative traffic during peak hours.

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Refer to Standard Response FB-Response-AQ-05, FB-Response-GENERAL-01.

The use of the phrase “to the extent feasible” does not imply that the measures are voluntary or suggested. The Authority will be required to comply with all mitigation measures as the project advances through final design and construction as described below.

See Standard Response AQ-05 (Mitigation), for discussion on how mitigation measures were refined in the Revised DEIR/Supplemental DEIS as a result of continuing project design, comments received on the Draft EIR/EIS, and additional consultation with public agencies. Many of the mitigation measures are based on performance standards. Accordingly, appropriate mitigation is included in the Final EIR/EIS and will also be included in FRA’s Record of Decision, which will require the Authority to comply with all mitigation measures as the project advances through final design and construction.

See Standard Response FB-Response-GENERAL-01 (Tiering and Level of Detail in Analysis and Mitigation) for discussion of mitigation measures. As discussed in that response, under CEQA, where the design details of the project have not been fully developed and the development of specific mitigation will rely on information not yet available, an EIR may take a phased approach to the development of specific mitigation, provided that it has analyzed the impact and made a significance determination, commits to mitigation in the form of a mitigation measure for the significant effect, and specifies "performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way" (14 CCR 15126.4[a][1][b]). The same is true under NEPA. The EIS must discuss mitigation “in sufficient detail to ensure that environmental consequences have been fairly evaluated,” but it is not necessary to formulate and adopt a complete mitigation plan (Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 352 [1989]).The mitigation measures identified in the Revised DEIR/Supplemental DEIS meet these requirements. During preparation of the impact sections, technical staff identified those impacts that would potentially exceed a level of significance. The Revised DEIR/Supplemental DEIS

BO032-103

identifies mitigation measures that will avoid, reduce, or otherwise mitigate each such potentially significant impact. Feasible mitigation is expected to be adopted to address each significant effect that was identified in the Revised DEIR/Supplemental DEIS.

BO032-104

The secondary impacts of the project are described in the Fresno to Bakersfield EIR/EIS. The example listed in this comment is best described as an inconvenience rather than an environmental impact. The short-term loss of electrical and water service to businesses occurs almost daily throughout the United States as the result of utility relocations. Utility relocations are common occurrences during infrastructure maintenance, infrastructure expansion, and new construction. In many cases, electrical and water services are not interrupted during a relocation because of supply system redundancy. However, in some cases, service must be shut off for minutes or a few hours to connect the relocated segment of the service to the remainder of the existing service system. In those cases, it is standard procedure to coordinate with affected businesses to ensure they are prepared for the short-term loss of service.

The temporary interruptions occurring as a result of construction of the project would be of this type, and the Authority or its contractor will similarly coordinate with landowners to minimize the effect of the interruptions.

Submission BO033 (Gregory Cooper, Cooper Farms, Inc., August 29, 2012)

COOPER FARMS, INC.
Gregory G. Cooper
Timothy J. Cooper
P.O. Box 97
Corcoran CA 93212

August 20, 2012

Fresno to Bakersfield Revised Draft EIR/Supplemental Draft EIS comment
770 L Street
Suite 800
Sacramento, CA 95814

Dear Sirs:

BO033-1

We operate a 300-acre farm located adjacent to Hwy 43, just North of Ave 144 about 3 miles South of Corcoran in Tulare County. (Sec 31 Township 21 Range 23). This ranch has been owned and operated by our family since 1955. We also own and farm 125 acres on Hwy 43 bounded on the North by Ave 128. (Section 16 Township 22 Range 23)

Located on the 300-acre parcel are three residences, an office and three shop buildings. The property is all underground pipelined with valves for flood irrigation. The fields have been leveled to irrigate south. Each residence has a domestic well and there are three deep wells on the property.

HSR BYPASS ROUTE

This proposal, as we understand it, would roughly run through the middle of the 300-acre ranch cutting across six underground pipelines, isolating the West side of the ranch. Pipelines, access roads and return systems would have to be relocated at great expense. Fields would have to be releveled and some parcels would be un-farmable. This route would come within 150 feet of one of the residences perhaps making it uninhabitable. The proximity of the tracks to the other residences would greatly lower their value.

EXISTING RAILROAD ROUTE

This route, as we understand it, calls for routing of traffic around a residence located on Ave 144 into an overpass at Ave 144 and Hwy 43 creating 2 small parcels which would be impossible to farm. It would greatly impact an existing residence and pomegranate orchard greatly lowering the property value. It would also divert traffic along the East Side of the ranch North then West to an overpass/ intersection at Hwy 43. This would necessitate the relocation of a residence, office and shop buildings. The proposed relocation of Hwy 43 further east into our ranch would, along with this overpass/intersection, create small parcels impossible to farm. Relocation of domestic wells and utilities service could become necessary. An overpass/intersection at Ave 128 and Hwy 43 would take 20 acres of our ranch there.

In conclusion, we are convinced that these proposed HSR routes would have a severe negative impact on our farming operation and our way of life, perhaps to the point that we can no longer live or farm here.

Sincerely,

Gregory G. Cooper
Owner/Operator

Timothy J. Cooper
Owner/Operator

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2012

CALIFORNIA High-Speed Rail Authority

Comment Card
Tarjeta de Commentarios

Fresno to Bakersfield High-Speed Train Section
Revised Draft Environmental Impact Report/ Supplemental Draft Environmental Impact Statement (Revised Draft EIR/Supplemental Draft EIS)

La Sección de Fresno a Bakersfield del Tren de Alta Velocidad
Proyecto Revisado de Informe de Impacto Ambiental/ Declaración de Impacto Ambiental Proyecto Suplementario (Proyecto Revisado EIR/Proyecto Suplementario EIS)

Please submit your completed comment card at the end of the meeting, or mail to:
Por favor entregue su tarjeta completada al final de la reunión, o envíela por correo a la siguiente dirección:
Fresno to Bakersfield Revised Draft EIR/Supplemental Draft EIS Comment, 770 L Street, Suite 800, Sacramento, CA 95814

The comment period is from July 20 to September 20, 2012. Comments must be received electronically, or postmarked, on or before September 20, 2012.
El periodo de comentario es del 20 de Julio al 20 de Septiembre del 2012. Los comentarios tienen que ser recibidos electrónicamente, o matasellados, el o antes del 20 de Septiembre del 2012.

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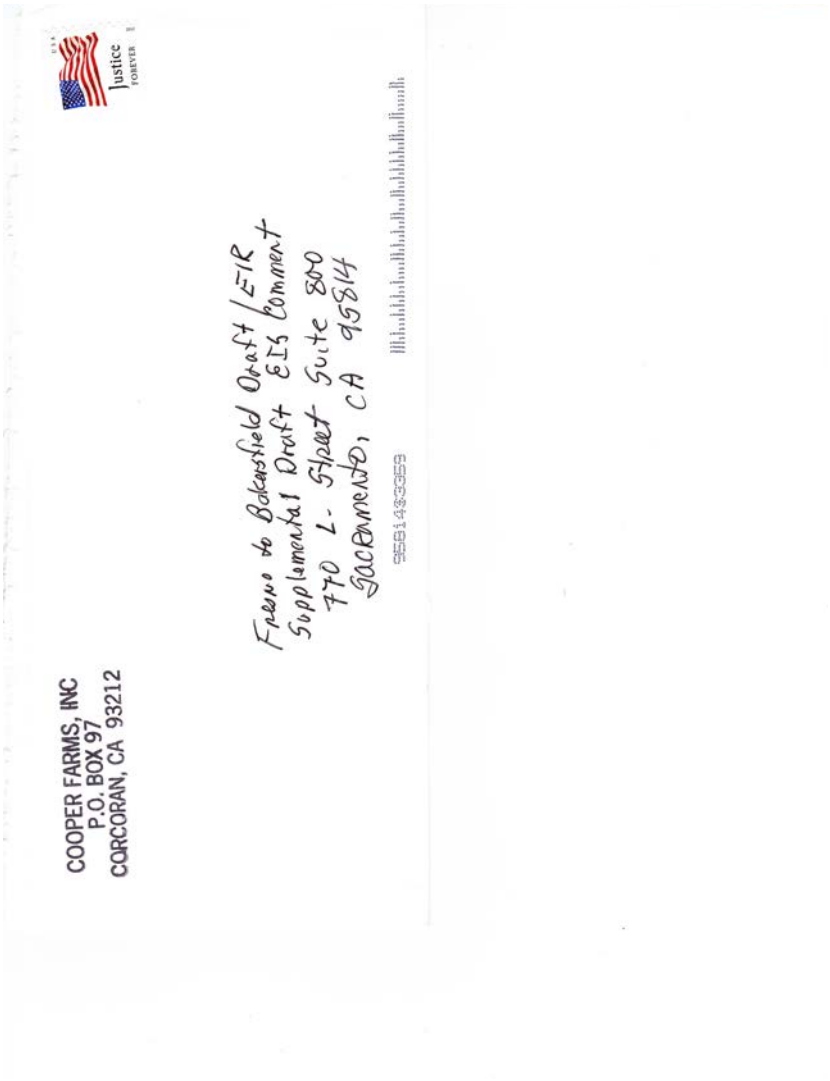
Phone Number/Número de Teléfono: Greg 559 362 2593 Tim 559 362 1772
City, State, Zip Code/Ciudad, Estado, Código Postal:
E-mail Address/Correo Electrónico:
(Use additional pages if needed/Usar paginas adicionales si es necesario)

Submission BO033 (Gregory Cooper, Cooper Farms, Inc., August 29, 2012) - Continued



Response to Submission BO033 (Gregory Cooper, Cooper Farms, Inc., August 29, 2012)

BO033-1

Refer to Standard Response FB-Response-GENERAL-04, FB-Response-SO-01, FB-Response-AG-01, FB-Response-AG-02.

Federal and State laws require that the Authority pay fair market value for the land that is acquired. The land acquisition process occurs before construction. It is during this phase that the Authority's right-of-way agent will work with individual landowners to mitigate impacts from both construction and operation of the HST. The Authority will fairly compensate landowners for loss or disruptions to their operations during the right-of-way acquisition process.

Submission BO034 (Michael Sharp, Corcoran Emergency Aid, October 18, 2012)

CALIFORNIA High-Speed Rail Authority

Comment Card
Tarjeta de Commentarios

Fresno to Bakersfield High-Speed Train Section
Revised Draft Environmental Impact Report/ Supplemental Draft Environmental Impact Statement (Revised Draft EIR/Supplemental Draft EIS)

La Sección de Fresno a Bakersfield del Tren de Alta Velocidad
Proyecto Revisado de Informe de Impacto Ambiental/ Declaración de Impacto Ambiental Proyecto Suplementario (Proyecto Revisado EIR/Proyecto Suplementario EIS)

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Fresno to Bakersfield Revised Draft EIR/Supplemental Draft EIS Comment, 770 L Street, Suite 800, Sacramento, CA 95814

Por favor entregue su tarjeta completada al final de la reunión, o enviela por correo a la siguiente dirección:

The c… ber 20, …cally, or …2012.

Extended comment period for Fresno to Bakersfield High Speed Train Revised Draft EIR/Supplemental Draft EIS:
July 20 – October 19

El periodo de comentario es del 20 de Julio al 20 de Septiembre del 2012. Los comentarios tienen que ser recibidos electrónicamente, o matasellados, el o antes del 20 de Septiembre del 2012.

Name/Nombre: Michael Sharp
Organization/Organización: Corcoran Emergency Aid
Address/Domicilio: 2155 Brinum Ave
Phone Number/Número de Teléfono: (559) 992-2920
City, State, Zip Code/Ciudad, Estado, Código Postal: Corcoran CA, 93212
E-mail Address/Correo Electrónico: sharpeagle@comcast.net
(Use additional pages if needed/Usar paginas adicionales si es necesario)

BO034-1 We are against the High Speed Rail because it will destroy this town. We need Amtrak because it's good transport to LA etc... The High Speed Rail will take out alot of streets and it will seperate every body. Corcoran is supposed to be a small town where every body is like family. You add the high speed rail we will lose alot of businesses!

BO034-2 HSR Doesn't have to do a EIR But all The businesses and farms moved have to do a EIR.

BO034-3 Poor people will have to get rides 1 hour away just to get on HSR, Right Now they just get on Amtrak in nearest town. Rates for Tickets will go from $ 35 To $ 120. Poor people can't do that.
The cost was approved at $33 B,1 IT is now over $98 B,1
There's already Land on I5 that can be used and will not affect as many Businesses.
There is No money for HSR. Stop HSR Now!!!

Response to Submission BO034 (Michael Sharp, Corcoran Emergency Aid, October 18, 2012)

BO034-1

Refer to Standard Response FB-Response-GENERAL-12, FB-Response-GENERAL-13, FB-Response-SO-04, FB-Response-SO-03.

BO034-2

The Authority has prepared program-level EIRs for the HST System as a whole and the Bay Area to Central Valley connection of the System. It is now preparing project-level EIRs for each section of the overall HST System.

BO034-3

Refer to Standard Response FB-Response-GENERAL-02, FB-Response-GENERAL-17, FB-Response-GENERAL-12, FB-Response-GENERAL-06.

The HST project does not include plans to discontinue Amtrak service to the Corcoran station or any other station or platform along the Fresno to Bakersfield Section corridor. If the BNSF Alternative is selected in the Corcoran area, the relocation of the facility would be completed before demolition of the existing structure and no disruption to Amtrak service would occur. Therefore, the HST project would not prevent residents from paying the fare for and taking Amtrak.

Submission BO035 (Michele Ilene Souza, Corcoran Emergency Aid, October 18, 2012)

CALIFORNIA High-Speed Rail Authority

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Name/Nombre: michele Ilene [redacted] SOUZA
Organization/Organización: Corcoran Emergency Aid
Address/Domicilio: 1826 whitley Ave
Phone Number/Número de Teléfono: [redacted]
City, State, Zip Code/Ciudad, Estado, Código Postal: Corcoran Calif 93212
E-mail Address/Correo Electrónico: no computer
(Use additional pages if needed/Usar paginas adicionales si es necesario)

BO035-1 I Feel High Speed Rail would Destroy alot of Peoples homes & Business, We have a Train & thats all we need.

BO035-2 High Speed Rail is going to cost everyone a ton of money that no one has,

Valle is with the rest of us. He is ~~total~~ totaly against High Speed Rail.

BO035-3 One of my Best Friends just moved in to their Brand new home & it cost them a lot of hard Earned money their The high speed rail would Destroy home.

Response to Submission BO035 (Michele Ilene Souza, Corcoran Emergency Aid, October 18, 2012)

BO035-1

Refer to Standard Response FB-Response-SO-04, FB-Response-SO-03.

For information on the impact to the community of Corcoran see EIR/EIS Volume I Section 3.12 Impact SO#7 and Impact SO#9 and Mitigation Measure SO-1.

BO035-2

Refer to Standard Response FB-Response-GENERAL-17.

BO035-3

Refer to Standard Response FB-Response-SO-01.

Submission BO036 (Ron Melot, Del Monte Foods, October 2, 2012)

DEL MONTE FOODS

Plant No. 24
10652 Jackson Avenue
Hanford, CA 93230

October 2, 2012

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

SUBJECT: Fresno to Bakersfield Revised Draft EIR/Supplemental Draft EIS

Dear Honorable Board Members:

Del Monte Foods ("Del Monte") submits these comments regarding the *California High-Speed Train Revised Draft Environmental Impact Report/ Supplemental Draft Environmental Draft Environmental Impact Statement* ("Fresno to Bakersfield Revised Draft EIR/Supplemental Draft EIS"), July 2012.

This letter is intended to clarify and expand upon the comments that were presented at the public comment hearing held on August 28, 2012 in Hanford, CA.

BO036-1 Please be aware that we also met with Project Regional Manager Thomas Tracy and his outreach team in Sacramento, CA, on August 24, 2012. At this meeting, we noted the failure of the Draft EIR/ Supplemental Draft EIS to adequately identify and factor the impacts of the Hanford West Bypass (Alternatives 1 & 2) on the Del Monte tomato processing facility, and our process wastewater land application operations and infrastructure.

We appreciate the opportunity to comment here more completely on the impacts of the Hanford West Bypass (Alternative 1 & 2) and provide a detailed explanation of the land in question, particularly since the Authority may not have been aware of the vital factory process wastewater operations that would be disrupted by the West Bypass options when the Draft EIR was written.

BO036-2 **Description of Del Monte Factory and Land Application Operations**

The Del Monte Hanford, CA tomato processing factory is located at 10652 Jackson Avenue (West of the City of Hanford). The factory employs over 1,000 employees at peak season and is responsible for approximately 7,000 contracted acres of California farm land and 385,000 tons of tomatoes annually. The factory produces the bulk of Del Monte's retail and food service tomato products that are sold throughout the United States.

The factory produces tomato products year-round (with most production taking place between June and October each year) generating approximately 266 million gallons of screened raw process wastewater and more than 2,000 wet tons of tomato by-products that must be managed each year.

At present, the plant generated process wastewater and by-products are spread across 1,077 acres of farm land in the immediate vicinity of the factory (Figure 1). Most of these farm lands

BO036-2 (except for 160-acres that Del Monte acquired in 2008) have been utilized for recycling Del Monte process wastewater since 1997 (the year that Del Monte acquired the factory from Nestle Foods).

Del Monte owns 492 of these acres and leases the remaining 585-acres which are owned by Alcala Farms (Figure 1). Further, Del Monte is currently in contract to purchase a new 160-acre site directly east of Field 22 depicted in Attached Figure 1.

The water that is applied to these acres produces both summer and winter crops each year, maximizing the efficiency of recycling the water. Nutrients in the wastewater, such as nitrogen and other applied plant nutrients are efficiently taken up into the crops, a sustainable method of managing of excess nutrients. The crops grown here, cotton, sorghum, Sudan grass and winter wheat, are chosen for their high nitrogen uptake capacity and are then sold by a local farmer who harvests the crops.

Plant process wastewater and tomato by-products are land applied as part of a permit obligation with the California Regional Water Quality Control Board ("RWQCB"). This permit/order was originally issued in 1996 and is now being updated by the RWQCB. Among other restrictions, the current site permit/order restricts the amount of process wastewater that may be applied (only agronomic loading rates allowed) and does not allow discharges to cause a significant change in groundwater quality at the site.

Projected Impacts on Del Monte

Del Monte requires continuous use of all of the above mentioned land application sites in order to be in full compliance with the site RWQCB permit/order for land application of processing waters. Without the right amount of crop land with the hydraulic and nutrient uptake capacity we cannot properly manage our process wastewater flows. If any amounts of these lands are used for the high-speed rail line, the basic operations of our Hanford, CA, factory would be at risk without timely and suitable replacement lands. Specifically, if the Hanford West Bypass (Alternative 1 or 2) route is selected, this will directly impact Del Monte's Hanford, CA factory (Figure 1) as follows:

BO036-3

- ***Hanford West Bypass 1 –*** This alternative would cut across a portion of the new property (new 160-acre parcel currently under contract for purchase) [NE Quarter Section], cut through a portion of our existing Field 17 (SW Quarter Section) and have an impact on Field 30 (NW Quarter Section).

Area/ Field	APN	Approximate Acres Lost/ Impacted
New Property/ Site	028-220-67	13
17	028-010-003	4
30	028-100-002	5
	Total	**22**

BO036-4 This alternative would also impact our ability to continue to convey process wastewater to the south (Fields 22 – 25), and it would restrict our ability to easily access these fields. Lastly, some

BO036-5 of our site monitoring wells would likely have to be abandoned with new wells constructed in other locations.

Submission BO036 (Ron Melot, Del Monte Foods, October 2, 2012) - Continued

BO036-6

- ***Hanford West Bypass 2*** – This alternative would not cut across the new property/ site but would cut across existing Field 17 (it would almost split this field in half) and travel across a portion of Field 30 (SW Quarter Section).

Area/ Field	APN	Approximate Acres Lost/ Impacted
New Property/ Site	028-220-67	No Impact
17	028-010-003	10 (possibly 80 or more acres)
30	028-100-002	9
	Total	**19**

BO036-7

This alternative would also impact our ability to continue to convey process wastewater to our fields to the south (Fields 22 – 25), and it would restrict our ability to easily access these fields.

BO036-8

Further, this alternative would significantly restrict our ability to continue to properly distribute process water evenly/ effectively across Field 17 (in that this alignment would split Field 17), and complicate existing infrastructure to the point that it may render ~80 or more acres on Field 17 no longer suitable to receive plant process waters. Lastly, some of our site monitoring wells would likely have to be abandoned with new wells constructed in other locations.

BO036-9

While both West Bypass Alternatives negatively impact Del Monte's operations and investments, the Hanford West Bypass 1 Alternative would likely have the lowest cumulative impacts on Del Monte's wastewater management activities.

BO036-10

Given the special nature of these lands versus typical farm lands, the overall economic impact of the Hanford West Bypass Alternatives with respect our property will far exceed a simple calculation of dollar per acreage.

BO036-11

If suitable replacement lands cannot be found nearby, our process wastewater management costs will be significantly higher due to the need to pump/pipe process wastewater longer distances for management. Any disruption of discharge or significantly increased cost would put the operation of our Hanford facility at risk.

At this juncture, it is not possible to incrementally quantify different plant impact scenarios. Yet, on a worst case basis, at risk would be 1,000 local jobs plus the concomitant local economic impact from our $140M direct cost that flow into the grower and business community, where these funds have a significant multiplier impact.

BO036-12

Proper Planning, Coordination, and Scheduling
If the Hanford West Bypass Alternative is ultimately selected, it will be vital that your authority engineers/scientists meet with us well before you begin detailed engineering design work in the area of our factory. This is because we would not be able to financially sustain any interruption in our year-round processing, packaging, and distribution activities that could result if the project were not properly planned, coordinated, and scheduled around our factory operational needs to be able to continually discharge/ manage plant processing waters in a manner consistent with RWQCB rules/ standards. Further, we could not afford any missteps that could result in us being subject to litigation or being deemed out of compliance with state regulation.

BO036-13

In addition to locating and purchasing new farm lands, installing new monitoring wells, and designing/ constructing new pipelines, we would also have to file a new *Report of Waste Discharge* with the RWQCB to gain approval to spread the processing waters across any new grounds. This approval/ permitting process could take as long as one-year or more to complete. Further, some or all the project activities associated with permitting a new process wastewater land application site could be subject to the California Environmental Quality Act ("CEQA") review requirements, adding more delay and increased cost.

BO036-14

Condition/ Status of Nearby Farm Lands
Note that land suitable for process wastewater application is in very short supply in the area of our Hanford factory because the large dairy farms in the area also require large amounts of land for properly managing manures. Further, much of the farm land south of our factory is unsuitable for process water recycling because it is salt impacted due to poor drainage and shallow ground water. All of these conditions have increased the cost of suitable farm land in the area of our factory and we have recently seen a spike in prices in lands of this nature.

BO036-15

We appreciate your consideration of these concerns and respectively request that you adequately assess the significant impacts on Del Monte's wastewater operations, the cost to replace the value of this land, and the overall economic impact this facility has on the community of Hanford and Kings County.

Please do not hesitate to call me at 559-772-3201 or email ron.melot@delmonte.com if you should have any questions.

Sincerely,

DEL MONTE FOODS

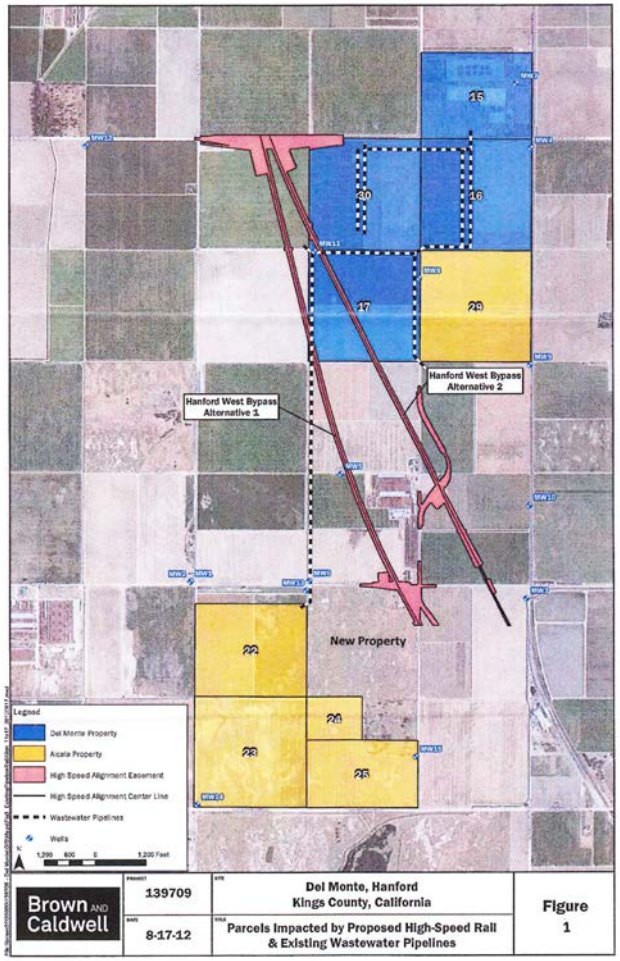
RDMelot

Ron Melot
Director Tomato Operations

Att: Site Map

cc: Ron Pitts
Carolyn Pande
Jarod Cook
Dave Withycombe
Tim Ruby
Kelly Bay
John Stier

Submission BO036 (Ron Melot, Del Monte Foods, October 2, 2012) - Continued



Fresno to Bakersfield Revised Draft EIR/
Supplemental Draft EIS Comment
770 L Street, Suite 800
Sacramento, CA 95814

DEL MONTE FOODS
DEL MONTE BRANDS

RETURN SERVICE REQUESTED

Response to Submission BO036 (Ron Melot, Del Monte Foods, October 2, 2012)

BO036-1

Refer to Standard Response FB-Response-SO-01, FB-Response-SO-03.

For information on the impacts on commercial and industrial businesses in communities, see Volume I, Section 3.12, Impact SO #10. For information on the property acquisition and compensation process, see Volume II, Technical Appendix 3.12-A. It is beyond the scope of the EIR/EIS to address the specific concerns of each private business. Individual acquisition and access issues will be determined during the property acquisition process.

Information provided by Del Monte Foods will be provided to HST contractors and will inform the final design.

BO036-2

Refer to Standard Response FB-Response-GENERAL-04, FB-Response-SO-01, FB-Response-AG-02.

The Authority has committed to maintain a "permit bureau" to help businesses overcome the regulatory disruptions caused by the project.

The HST should only require a minimal amount of land from Del Monte. The Authority will negotiate with landowners for any disruption to operations that construction or operation of the HST causes. The Authority will fairly compensate landowners for loss or disruptions to their operations during the right-of-way acquisition process, including wastewater conveyance systems, wells, and the regulatory costs of re-permitting these systems. The Authority will work with individuals on a case-by-case basis to provide equal utility for the replacement wells.

BO036-3

Refer to Standard Response FB-Response-SO-01, FB-Response-AG-02.

BO036-4

Refer to Standard Response FB-Response-SO-01, FB-Response-AG-02.

BO036-5

Refer to Standard Response FB-Response-SO-01, FB-Response-AG-04, FB-Response-AG-02.

The Authority will negotiate with landowners for any disruption to operations that construction or operation of the HST causes. The Authority will fairly compensate land owners for loss or disruptions to their operations during the right-of-way acquisition process, including wastewater conveyance systems, wells, and the regulatory costs of re-permitting these systems. The Authority will work with individuals on a case-by-case basis to provide equal utility for the replacement wells.

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BO036-6

Refer to Standard Response FB-Response-AG-02.

BO036-7

Refer to Standard Response FB-Response-SO-01, FB-Response-AG-02.

The Authority will negotiate with landowners for any disruption to operations that construction or operation of the HST causes. The Authority will fairly compensate landowners for loss or disruptions to their operations during the right-of-way acquisition process, including wastewater conveyance systems, wells, and the regulatory costs of re-permitting these systems. The Authority will work with individuals on a case-by-case basis to provide equal utility for the replacement wells and wastewater fields.

Response to Submission BO036 (Ron Melot, Del Monte Foods, October 2, 2012) - Continued

BO036-8

Refer to Standard Response FB-Response-SO-01, FB-Response-AG-02.

The HST should only require a minimal amount of land from Del Monte. The Authority will negotiate with landowners for any disruption to operations that construction or operation of the HST causes. The Authority will fairly compensate landowners for loss or disruptions to their operations during the right-of-way acquisition process, including wastewater conveyance systems, wells, and the regulatory costs of re-permitting these systems. The Authority will work with individuals on a case-by-case basis to provide equal utility for the replacement wells.

BO036-9

Refer to Standard Response FB-Response-SO-01.

Information provided by Del Monte Foods will be provided to HST contractors.

BO036-10

Refer to Standard Response FB-Response-GENERAL-04, FB-Response-SO-01.

BO036-11

Refer to Standard Response FB-Response-GENERAL-04, FB-Response-SO-01.

BO036-12

Refer to Standard Response FB-Response-SO-01.

The EIR/EIS recognizes that affected businesses would require new permits from state (i.e., Regional Water Quality Control Board [RWQCB] water quality permit) and local (i.e., conditional use permit [CUP]) agencies before a new site could be approved. In order to address this concern, the EIR/EIS includes a commitment (see Section 3.14.6, Project Design Features) to assist agricultural facility owners in obtaining new or amended permits for the continued operation or relocation of the facility. In accordance with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, land owners will be fairly compensated for loss or disruptions to their operations, including the costs associated with the loss of wastewater lands and the costs of

BO036-12

permitting new lands.

BO036-13

Refer to Standard Response FB-Response-GENERAL-04, FB-Response-SO-01, FB-Response-AG-02.

The Authority has committed to maintain a “permit bureau” to help businesses overcome the regulatory disruptions caused by the project.

The HST should only require a minimal amount of land from Del Monte. The Authority will negotiate with landowners for any disruption to operations that construction or operation of the HST causes. The Authority will fairly compensate landowners for loss or disruptions to their operations during the right-of-way acquisition process, including wastewater conveyance systems, wells, and the regulatory costs of re-permitting these systems. The Authority will work with individuals on a case-by-case basis to provide equal utility for the replacement wells.

BO036-14

Refer to Standard Response FB-Response-GENERAL-04, FB-Response-SO-01, FB-Response-AG-06, FB-Response-AG-02.

The Authority is proposing to work with businesses that are losing their wastewater land to help them get new land permitted to account for the land that it lost by the HST alignment. The Authority has committed to maintain a “permit bureau” to help businesses overcome the regulatory disruptions caused by the project.

The HST should only require a minimal amount of land from Del Monte. The Authority will negotiate with landowners for any disruption to operations that construction or operation of the HST causes. The Authority will fairly compensate landowners for loss or disruptions to their operations during the right-of-way acquisition process, including wastewater conveyance systems, wells, and the regulatory costs of re-permitting these systems. The Authority will work with individuals on a case-by-case basis to provide equal utility for the replacement wells.

Response to Submission BO036 (Ron Melot, Del Monte Foods, October 2, 2012) - Continued

BO036-15

For information on the project effects on agricultural business, and economic effects on agriculture, see EIR/EIS Volume I Section 3.12 Impacts SO#11 and SO #15.

Submission BO037 (Deral and Andria Fike, Deral Fike Trucking, October 18, 2012)

CALIFORNIA High-Speed Rail Authority

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Name/Nombre: Deral + Andria Fike
Organization/Organización: Deral Fike Trucking
Address/Domicilio: 14780 Fargo Ave.
Phone Number/Número de Teléfono: (559) 904-3372
City, State, Zip Code/Ciudad, Estado, Código Postal: Hanford, CA 93230
E-mail Address/Correo Electrónico: andriafike@yahoo.com
(Use additional pages if needed/Usar paginas adicionales si es necesario)

BO037-1 We get all of the water for our trucking business and our horse farm from my wells, which tap into an underground ~~aquifer~~ aquifer. How will the vibrations from the train impact ground water structures and wells?

My understanding is that there are 2 aquifers under the proposed HST route, one on top of the other. Most property owners wells are tapped into the upper aquifer. Has a study been done to

BO037-2 determine the impacts of vibrations upon the structure of the aquifers?

Has the vibration impact been evaluated near the I 5 corridor?

CALIFORNIA High-Speed Rail Authority

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City, State, Zip Code/Ciudad, Estado, Código Postal: Hanford, CA 93230
E-mail Address/Correo Electrónico: andriafike@yahoo.com
(Use additional pages if needed/Usar paginas adicionales si es necesario)

I operate an agricultural trucking company. The HST will require me to route my trucks a greater distance to the overcrossings. This will require my trucks to

BO037-3 travel additional mileage. How will the additional mileage traveled by diesel trucks (mine and others) be evaluated to determine if there will be additional

BO037-4 emissions which will affect the already-poor valley air quality? How much additional congestion

BO037-5 will this cause? What will the cost be to me and other business owners.

Further I access my customers agricultural fields to deliver products. The HST will bisect the farms

BO037-6 of many of my customers, reducing or eliminating access, and requiring my trucks to travel additional miles, some of which will be dirt roads, to access

BO037-7 the fields. ~~Has~~ ~~This~~ I will be forced to charge my customers additional freight. Has this economic impact been address?

Submission BO037 (Deral and Andria Fike, Deral Fike Trucking, October 18, 2012) - Continued

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Name/Nombre: Deral & Andria Fike

Organization/Organización:

Address/Domicilio:

Phone Number/Número de Teléfono: (559) 904-3372

City, State, Zip Code/Ciudad, Estado, Código Postal: Hanford, CA 93230

E-mail Address/Correo Electrónico: andriafike@yahoo.com

(Use additional pages if needed/Usar paginas adicionales si es necesario)

BO037-8

The DEIR/S does not discuss air quality impacts from personal & business/commerce traffic having to travel extra miles to access overcrossings. How will this affect air quality?

Would this be an issue if the line were constructed along the I5 corridor?

CALIFORNIA High-Speed Rail Authority

Comment Card
Tarjeta de Commentarios

Fresno to Bakersfield High-Speed Train Section
Revised Draft Environmental Impact Report/ Supplemental Draft Environmental Impact Statement (Revised Draft EIR/Supplemental Draft EIS)

La Sección de Fresno a Bakersfield del Tren de Alta Velocidad
Proyecto Revisado de Informe de Impacto Ambiental/ Declaración de Impacto Ambiental Proyecto Suplementario (Proyecto Revisado EIR/Proyecto Suplementario EIS)

Please submit your completed comment card at the end of the meeting, or mail to:
Fresno to Bakersfield Revised Draft EIR/Supplemental Draft EIS Comment, 770 L Street, Suite 800, Sacramento, CA 95814

Por favor entregue su tarjeta completada al final de la reunión, o enviela por correo a la siguiente dirección:

The comment period is from July 20 to September 20, 2012. Comments must be received electronically, or postmarked, on or before September 20, 2012.

El periodo de comentario es del 20 de Julio al 20 de Septiembre del 2012. Los comentarios tienen que ser recibidos electrónicamente, o matasellados, el o antes del 20 de Septiembre del 2012.

Name/Nombre: Deral & Andria Fike

Organization/Organización:

Address/Domicilio:

Phone Number/Número de Teléfono: (559) 904-3372

City, State, Zip Code/Ciudad, Estado, Código Postal: Hanford, CA 93230

E-mail Address/Correo Electrónico: andriafike@yahoo.com

(Use additional pages if needed/Usar paginas adicionales si es necesario)

BO037-9

The DEIR/S says that noise/air disruptive studies will be done after the rail line is installed.

How will the air disruption from HST impact air borne particulates in the air?

How will the air disturbance impact the occurences of Valley Fever?

What impacts will the construction process have on air quality, specifically, the earth moving that will be required to construct the berm the rails will be laid upon? What impacts will there be to air quality from the construction of the earthen berms for the overcrossings?

Has the impact of the airborne dust been evaluated on the proposed I5 corridor route?

Response to Submission BO037 (Deral and Andria Fike, Deral Fike Trucking, October 18, 2012)

BO037-1

Refer to Standard Response FB-Response-AG-04.

Well depths in the Central Valley aquifer system are determined by the depth of permeable aquifer material and by the quality of the ground water. In general, wells are usually less than 500 feet deep in the Sacramento Valley but are as deep as 3,500 feet in the San Joaquin Valley. The greater depth of wells is a result of the low permeability of the sands in the unconfined aquifer in the western and southern San Joaquin Valley and of highly mineralized water and water high in selenium in the upper parts of the aquifer system in the western San Joaquin Valley. At a depth of 500 feet, the vibration levels due to high-speed train (HST) operations are projected to be less than 57 VdB. Vibration levels this low are adequate for high-power optical microscopes (1000X) to be used for inspection and lithography equipment to 3-micron line widths. There are not expected to be any impacts to the Central Valley aquifer system from vibration associated with the operation of the HST System.

BO037-2

Deep aquifers currently located adjacent to the existing BNSF tracks are subject to vibration levels substantially higher than the vibration levels that would be generated by HST operations. If the wells are not currently experiencing any of these problems under existing conditions, they would not be expected to experience these problems with the addition of HST operations. Well depths in the Central Valley aquifer system are determined by the depth of permeable aquifer material and by the quality of the ground water. In general, wells are usually less than 500 feet deep in the Sacramento Valley but are as deep as 3,500 feet in the San Joaquin Valley. The greater depth of wells is a result of the low permeability of the sands in the unconfined aquifer in the western and southern San Joaquin Valley and of highly mineralized water and water high in selenium in the upper parts of the aquifer system in the western San Joaquin Valley. At a depth of 500 feet, the vibration levels due to high-speed train operations are projected to be less than 57 VdB. Vibration levels this low are adequate for high-power optical microscopes (1000X) to be used for inspection and lithography equipment to 3-micron line widths. There are not expected to be any impacts to the Central Valley aquifer system from vibration associated with the operation of the high- speed train system. A vibration analysis has not been conducted near the I-5 as no part of the project alignment between Fresno and Bakersfield goes near the I-5 freeway.

BO037-3

Refer to Standard Response FB-Response-AQ-03.

BO037-4

Refer to Standard Response FB-Response-TR-02.

Refer to Impact TR #10 – Impacts on Regional Transportation System.

BO037-5

Refer to Standard Response FB-Response-AQ-03.

BO037-6

Refer to Standard Response FB-Response-TR-02.

BO037-7

Refer to Standard Response FB-Response-SO-01, FB-Response-AG-02.

For information on the economic effects on agriculture, see Impact SO #15 in Section 3.12, Socioeconomics, Communities, and Environmental Justice.

BO037-8

Refer to Standard Response FB-Response-AQ-03.

BO037-9

Refer to Standard Response FB-Response-2, FB-Response-AQ-01, FB-Response-AQ-02, FB-Response-AQ-05.

The Final EIR/EIS analyzes the impact of dust due to air disruption, and does not state that air disruption studies will be done after the rail line is installed. Although valley fever fungi are commonly found in the soil in the Central Valley and can be stirred into the air by anything that disrupts the soil, the potential for the operational HST to generate dust through induced air flow is low. Therefore, the impacts from valley fever will be less than significant.

Response to Submission BO037 (Deral and Andria Fike, Deral Fike Trucking, October 18, 2012) - Continued

BO037-9

Appendix A of the Air Quality Technical Report provided quantitative emission estimates from construction activities, including earthmoving and overcrossing construction (Authority and FRA 2012f). The dust minimization measures listed in Section 3.3.8 of the Final EIR/EIS will further reduce fugitive dust emissions to a less-than-significant impact.

The impact of airborne dust on the proposed I-5 corridor was not analyzed, because the proposed I-5 corridor was rejected from further study during the alternative analysis.

Submission BO038 (Diane Bettencourt, Don and Steve Bettencourt Farms, LLC, October 18, 2012)

CALIFORNIA High-Speed Rail Authority

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El periodo de comentario es del 20 de Julio al 20 de Septiembre del 2012. Los comentarios tienen que ser recibidos electrónicamente, o matasellados, el o antes del 20 de Septiembre del 2012.

Name/Nombre: Diane Bettencourt
Organization/Organización: Don & Steve Bettencourt Farms, LLC
Address/Domicilio: 6095 14th Ave
Phone Number/Número de Teléfono: 559 779-5167
City, State, Zip Code/Ciudad, Estado, Código Postal: Hanford, CA 93230
E-mail Address/Correo Electrónico:
(Use additional pages if needed/Usar paginas adicionales si es necesario)

BO038-1 DEIR/S FAILS TO Adequately describe and characterize land use. impacts:
The DEIR/S fails to describe the projects impacts on land use. The DeiR/s finds that project impacts will be less than significant when taking into consideration the total percent of land impacted. To the contrary, land use impacts will be significant. The DEIR/S underestimates land use impacts because:
The DeiR/s omits critical information about existing land uses and land use policies. Your foot print does not address the 30' for turnaround of equipment needed. The travel is 5 miles 2x a day to access our agriland and denies access to well & shop were our equipment is stored. The project will remove 1/2 mile of walnut trees

Response to Submission BO038 (Diane Bettencourt, Don and Steve Bettencourt Farms, LLC, October 18, 2012)

BO038-1

Refer to Standard Response FB-Response-LU-02, FB-Response-LU-03.

The Revised DEIR/Supplemental DEIS states that the HST alternatives would result in the permanent conversion of land to transportation uses, which in many locations would be incompatible with existing land uses. Although the amount of land affected by the conversion of uses under the HST alternatives would be a relatively small percent of the four-county study area (approximately 4,000 acres, or less than 0.01%), there is the potential for significant land use incompatibilities to occur. As stated in Section 3.19.4 of the Revised DEIR/Supplemental DEIS, cumulative land use impacts would be substantial under NEPA, and significant under CEQA because of changes in land use that could result from implementation of the HST alternatives. The HST alternatives' contribution to this impact would be substantial under NEPA, and cumulatively considerable under CEQA.

Impacts on existing land uses are based on the removal of that land from its existing use to a transportation use. Land outside of the project footprint designated as agricultural land would still remain designated as agricultural and available for agricultural uses. The impact analysis in Section 3.14.5.3 took into account whether diagonal alignments could cause hardships in maintaining economic activity on otherwise viable parcels in a manner that could lead to agricultural land conversion to a non-agricultural use. The analysis also considered whether farmers may also lose productivity because of the new shape of the parcels. This is because farmers consider crop direction so that they can maximize their crop yield and decrease the amount of land used for vehicle turnaround and storage. With the HST severing their parcels, farmers may need to plant their crops in a different direction to maximize their yield or use a larger percentage of their land for roads in order to maneuver equipment. See Section 3.14.5.3 for a discussion of impacts on agricultural land.

Submission BO039 (Brad Samuelson, Fagundes Brothers Diary, October 18, 2012)

Fagundes Brothers Dairy

October 18, 2012

Chairman Thomas J. Umberg
California High-Speed Rail Authority
925 "L" Street, Suite 1425
Sacramento, CA 95814

Re: Fagundes Brothers Dairy's Comments on the Fresno to Bakersfield Draft Environmental Impact Report / Environmental Impact Statement

Dear Chairman Thomas J. Umberg and Members of the Authority:

The parties referred to in this letter as Fagundes Brothers Dairy[1] have been participating in the California High-Speed Rail Authority's (Authority) environmental review process for many months and we appreciate the opportunity to provide comments on the Fresno to Bakersfield Draft Project Environmental Impact Report / Environmental Impact Statement (EIR/EIS).

We believe the Authority has moved head long into the environmental process and has produced an EIR/EIS that is inconsistent with the CEQA guidelines and goes against the spirit of full disclosure. The Authority and Federal Rail Authority (FRA) should delay the certification of this EIR/EIS until accurate and complete analysis is completed and reasonable mitigation measures are described. Throughout the document, the analysis of the environmental impacts is flawed, inadequate, buried in the appendix, or deferred for future study.

The following are the Fagundes Brothers Dairy primary areas of concern:

I. Piecemealing and Incomplete Disclosure

BO039-1

In CEQA, piecemealing a project is when a large development project is broken up into several small projects. CEQA discourages piecemeal processing because it conceals the true impacts of

[1] As used herein, the term Fagundes Brothers Dairy refers collectively to the following affiliated individuals and entities: 1) Fred Fagundes; 2) Ralph Fagundes; 3) Lloyd Fagundes; 4) Deborah Fagundes; 5) Vicki Fagundes; 6) Fagundes, Fagundes, Fagundes; 7) Fagundes Brothers LLC; 8) Fagundes Dairy; 9) Fagundes Family Trust; 10) Valley Calf LLC; and 11) Fagundes Dairy #2. These comments are submitted on behalf of each of the listed individuals and entities.

Fagundes Brothers Dairy

BO039-1

a development. The entire HSR project and all its impacts much be considered as a whole; the EIR/EIS utterly fails to do that, and thus fails to fully and properly consider project impacts.

II. Existing Corridors

BO039-2

The Authority made a number of commitments to utilize existing corridors when it certified the Bay Area to Central Valley Program EIR/EIS in 2008. That EIR/EIS expressly acknowledges that the use of existing corridors is one of ten key project objectives. Moreover, the Authority has established that using existing corridors is the most important mitigation strategy to minimize significant environmental impacts to agricultural lands and biological resources.

Several routes being considered diagonally sever thousands of acres of farmland because they do not follow an existing corridor and would result in significant and unavoidable impacts to agricultural lands and biological resources. These alignments require the conversion of large tracts of open space into a new rail corridor.

III. Flawed Tiering and Impact Analysis

BO039-3

The impacts to agricultural operations, especially dairies (as well as many other businesses), are essentially overlooked in the EIR/EIS. The document states that dairies are not important farmland and therefore the impact on dairies would be negligible or less than significant. The

BO039-4

EIR/EIS also fails to address the impacts on operations like ours that have strategically sited operations to take advantage of development opportunities that will have those opportunities destroyed by the placement of HSR facilities on or around our property.

IV. Environmental Justice

BO039-5

The project would convert thousands of acres of important farmland (depending on alternative) but the EIR/EIS fails to reveal the number of agricultural jobs and the income that would be lost. The EIR/EIS is seriously lacking in its evaluation of impacts which is required under NEPA.

BO039-6

The EIR/EIS argues that even though property acquisition impacts would be predominantly borne by Environmental Justice (EJ) communities, with mitigation the impacts would not be more severe for these communities than the effects on non-EJ communities. The fact of the matter is that if a project with numerous adverse effects is proposed in an area that contains high concentrations of EJ communities, as does the project area, then that project has a significant EJ effect. The EIR/EIS should admit to such an impact, rather than argue that the

Submission BO039 (Brad Samuelson, Fagundes Brothers Diary, October 18, 2012) - Continued

Fagundes Brothers Dairy

BO039-6

impact would not be more severe than the impact on non-EJ communities. The EIR/EIS thus fails to properly analyze the EJ impacts of the project.

* * *

We appreciate the effort your staff and consultants have taken to keep us informed but are still extremely disappointed that many of our concerns regarding the route selection, the environmental process, and mitigation have gone unanswered. We look forward to you addressing our concerns in the Final EIR/EIS. Please feel free to contact us at (209) 383-6046 should you have questions regarding any of the above.

Sincerely,

Brad Samuelson

Brad Samuelson
General Manager

3

Response to Submission BO039 (Brad Samuelson, Fagundes Brothers Diary, October 18, 2012)

BO039-1

Refer to Standard Response FB-Response-GENERAL-01, FB-Response-GENERAL-20.

BO039-2

Refer to Standard Response FB-Response-GENERAL-02, FB-Response-GENERAL-10, FB-Response-AG-02, FB-Response-AG-03, FB-Response-AG-04, FB-Response-GENERAL-14.

As described in Section 3.7, Biological Resources and Wetlands, of the Final EIR/EIS, in several instances selection of bypass alternatives that occur outside of existing transportation corridors would result in similar or fewer impacts on biological resources compared to the BNSF Alternative. For example, selection of the Allensworth Bypass Alternative would result in fewer impacts on observed populations of special-status plant species, certain special-status plant communities, jurisdictional waters, and natural habitats.

BO039-3

Refer to Standard Response FB-Response-GENERAL-04, FB-Response-SO-01, FB-Response-AG-06.

Impacts on dairies are discussed in the Section 3.14.5. They are not classified as "important farmland" under the classification system used by the Farmland Mapping Monitoring Program of the California Department of Conservation. However the Authority does recognize the importance of dairies in the Central Valley, and a detailed discussion of the impacts on each individual dairy along with figures showing the impact of the HST alignment are provided in Appendix 3.14-B, Impacts on Confined Animal Agriculture.

BO039-4

Refer to Standard Response FB-Response-AG-06 and FB-Response-GENERAL-04.

Section 3.14.5.3 discusses impacts on agricultural lands, including confined animal facilities. Agriculture-related to planting is not considered a use that is sensitive to noise and vibration; however, impacts on domestic livestock resulting from noise and vibration

BO039-4

are discussed in Section 3.4.5.3.

As discussed in Standard Response FB-Response-GENERAL-04, landowners will be compensated for the fair market value of land that is required for the HST project. However, this does not include any speculative value of the land for "development opportunities" that are not reflected in its existing use or existing entitlements.

BO039-5

Refer to Standard Response FB-Response-GENERAL-04.

For information on the economic effects on agriculture see EIR/EIS Volume I Section 3.12 Impact SO #15. For a detailed analysis of the effects of the HST project on agricultural production, see Appendix C of the Community Impact Assessment Technical Report (Authority and FRA 2012h). The analysis in that appendix provides these results by county and by project alternative in terms of the number of acres of agricultural production loss, the resulting annual revenue loss in both dollar and percent terms for each type of agricultural product, and the employment loss.

BO039-6

The environmental justice analysis adheres to the definition given by Executive Order 12898 and U.S. Department of Transportation Order 5610.2, which defines an environmental justice effect as a "disproportionately high and adverse effect on minority and low-income populations." This is an adverse effect that is predominately borne by a minority population and/or a low-income population or that would be appreciably more severe or greater in magnitude for the minority and/or a low-income population than the adverse effect that would be suffered by the non-minority and/or non-low-income population along the project.

Section 5.3 in the Community Impact Assessment Technical Report (Authority and FRA 2012h) provides detailed information on the potential for substantial environmental justice effects across resources along the project. Volume 1 Section 3.12 Impacts SO#17 and SO#18 summarize these findings.

EJ community cohesion effects: Construction and operation of the HST would split some

Response to Submission BO039 (Brad Samuelson, Fagundes Brothers Diary, October 18, 2012) - Continued

BO039-6

communities and disrupt their current community character. The EJ communities affected by cohesion impacts are Corcoran and Bakersfield. Effects would be substantial and significant and would remain significant with the proposed mitigation measures. Mitigation of impacts to less than significant is not possible in every instance, so the effect is acknowledged and considered in decisions about project alternatives.

EJ displacement effects: Construction and operation of the HST would displace a number of residences, businesses, and community buildings. For displacement of residences, the EJ areas of concern include the northwestern and northeastern districts in Bakersfield. For the displacement of businesses, the areas of concern include Fresno's Edison District, unincorporated Fresno County, Corcoran, Wasco, and the central and northeastern districts of Bakersfield. For the displacement of important community buildings (Bakersfield High School, Mercado Latino Tianguis, Fresno Rescue Mission, Bakersfield Homeless Shelter, Mercy Hospital, and multiple churches) impacts could be reduced to a less-than-significant level with implementation of Mitigation Measures SO-MM#3 (Implement Measures to Reduce Impacts Associated with the Relocation of Important Facilities).

Submission BO040 (Merrill N. Dibble, Farmland Reserve, Inc. (Atty. For) Bartkiewicz, Kronick & Shanahan, October 19, 2012)

BARTKIEWICZ, KRONICK & SHANAHAN

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8825

October 19, 2012

VIA E-MAIL

California High-Speed Rail Authority
Federal Railroad Administration
Fresno to Bakersfield RDEIR/SDEIS Comment
770 L Street, Suite 800
Sacramento, CA 95814

Re: Comments on Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement: Fresno to Bakersfield Section of the California High-Speed Train Project

Ladies and Gentlemen:

We represent Farmland Reserve, Inc. ("FRI"). FRI has authorized us to submit its comments to the California High-Speed Rail Authority and Federal Railroad Administration concerning the Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement for the Fresno to Bakersfield section of the California High-Speed Train Project.

FRI thanks the High Speed Rail Authority for its consideration of the attached comments and looks forward to the Authority's responses to them.

Sincerely,

Paul M. Bartkiewicz

PMB:adm

Attachment: FRI's Comments on RDEIR/SDEIS,
Fresno to Bakersfield Section of High-Speed Train Project

8825/L101812jmh HSR EIR-EIS Comments

Farmland Reserve, Inc.
139 E. South Temple, Suite 600
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(801) 715-9100

October 18, 2012

California High-Speed Rail Authority and Federal Railroad Administration
Fresno to Bakersfield Revised Draft EIR/Supplemental Draft EIS Comment
770 L Street, Suite 800
Sacramento, CA 95814

Re: Comments on California High-Speed Train Project: Fresno to Bakersfield Section of the Revised Draft Environmental Impact Report/Statement

Ladies and Gentlemen:

The following are Farmland Reserve, Inc.'s comments on California High-Speed Train Project: Fresno to Bakersfield Section of the Revised Draft Environmental Impact Report/Statement, July 2012 ("EIR"), prepared by the California High Speed Rail Authority and the Federal Railroad Administration. The paragraphs numbered below correspond with the section numbers of the EIR:

BO040-1

1.1.2. The EIR is describes the project as: "The Fresno to Bakersfield HST Project section would connect a Fresno station, a potential Kings/Tulare Regional station in the Hanford/Visalia/Tulare area, and a Bakersfield station. The planned HST line north of the Fresno to Bakersfield section would extend to Merced." The EIR then explains that the EIR project is in Tier 2 of an environmental review process that began with a Tier 1 programmatic environmental impact report/environmental impact statement that encompassed the entire proposed California High Speed Train ("HST") system. This HST system includes extensions to Sacramento, the San Francisco Bay Area, the Los Angeles Area and San Diego. Therefore, the actual project is a much longer system than Fresno to Bakersfield section.

The California Environmental Quality Act ("CEQA") (Pub. Res. Code sec. 21000, et seq.) and the CEQA Guidelines (Title 14 Cal. Code Regs. sec. 15000, et seq.) ("Guidelines") require that a project description be "stable and finite." *County of Inyo v. City of Los Angeles* (3d Dist. 1977) 71 Cal. App. 3d 185; *Kings County Farm Bureau v. City of Hanford* (5th Dist. 1990) 221 Cal. App. 3d 692. The courts have long recognized the need for an accurate and stable project description:

pg. 1

Submission BO040 (Merrill N. Dibble, Farmland Reserve, Inc. (Atty. For) Bartkiewicz, Kronick & Shanahan, October 19, 2012) - Continued

BO040-1

> A curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal . . . and weigh other alternatives in the balance.

County of Inyo, supra.

Further, Guidelines section 15378 defines "project" for purposes of a project description, among other things, as follows: "Project means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment . . . ." (Emphasis added.) "Project is given a broad interpretation in order to maximize protection of the environment." *McQueen v. Board of Directors of the Mid-Peninsula Regional Space District* (6th Dist. 1988) 202 Cal. App. 3d 1136. Since the project includes a much larger HST system than that analyzed in the EIR (at a minimum, a Merced to Bakersfield segment which has been analyzed in a Tier 2 environmental document rather than a truncated Fresno to Bakersfield segment), the EIR falls short of the requirement that the "whole of an action" be considered and analyzed.

BO040-2

By not including an analysis of the impacts associated with the entire proposed system, the project description does not meet the requirements of CEQA and the Guidelines. Since the entire Merced to Bakersfield portion of the HST system (including both the Fresno to Merced and Fresno to Bakersfield sections) must be constructed first, the EIR must at least analyze the environmental impacts associated with these two sections of the HST line together.

BO040-3

By not integrating the entire HST system into the project description (or at least the Fresno to Merced section) results in impermissible "piecemealing" of the proposed project. A project cannot be broken into segments for purposes of CEQA analysis (or the National Environmental Policy Act, 42, U.S.C sec. 4321, et seq.) "by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have disastrous consequences." *Bozung v. Local Agency Formation Commission* (1975) 13 Cal. 3d 263. See also *Burbank-Glendale-Pasadena Airport Authority v. Hensler* (2d Dist. 1991) 233 Cal. App. 3d 577; and *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal. 3d 376. By failing to consider the environmental effects of the entire system (or at least the entire Merced to Bakersfield portion of the system), the project has been segmented in violation of the bar against piecemealing.

BO040-4

BO040-5

The EIR fails to account for the cumulative impacts associated with the entire HST system by piecemealing the environmental analysis of the HST project. Since there are similar impacts associated with every segment of the HST (aesthetics, noise, vibration, etc.) there is the potential for significant cumulative impacts associated with the entire HST system that are not accounted for and analyzed in the EIR.

BO040-6

Because the EIR must fulfill the requirements of NEPA, the project is also required to include a statement of purpose and need which defines the range of reasonable alternatives available to the California High Speed Rail Authority (40 C.F.R. sec. 1502.13.) The EIR contains a series of ambiguous statements regarding traffic congestion on the major surface arteries in the Central Valley, constraints that limit air travel, etc. It also does not contain an accurate statement of purpose and the goal of the HST is not clearly defined in the EIR.

BO040-7

1.2.4.1. The analysis of inter-city air service concludes that because of capacity constraints at the Los Angeles International Airport , train capacity will be required to fill the demand. This analysis is flawed because it does not take into consideration the capacity of the Bob Hope (Burbank), Orange County and Ontario airports.

BO040-8

1.6 The Revised 2012 Business Plan adopted by the California High Speed Rail Authority describes a phased implementation strategy that ". . . envisions the first construction of the Initial Operation Section (IOS first construction), a 130 mile segment that extends from North of Fresno to Bakersfield." Interim use of the IOS first construction track for upgraded Amtrak service is envisioned in the 2012 Business Plan; however, there is no analysis of impacts associated with this plan. In fact, the EIR provides as follows:

BO040-9

> The interim use of IOS first construction track for upgraded Amtrak service could have environmental impacts that differ from those analyzed in the EIR/EIS.

By stating "could have environmental impacts that differ from those analyzed in the EIR/EIS," the authors of the EIR admit to completely avoiding the environmental impacts associated with the interim use of the IOS. Without an assessment of the potential environmental impacts associated with interim use of the IOS by Amtrak, the EIR impermissibly defers the required assessment by leaving it to a later date and document. Deferral of environmental assessments is not permitted and also amounts to piecemealing because it results in further segmentation of the project. *Sundstrom v. County of Mendocino* (1st Dist. 1988) 202 Cal. App. 3d 296.

BO040-10

2.2.6.1. The EIR notes that power for the HST will be supplied by PG&E and PG&E transmission lines may need to be reconstructed and new power poles may need to be installed in order to accommodate the HST. The environmental review of reconstruction and/or installation of new power poles is left to PG&E for a later date and once again the EIR impermissibly piecemeals the project and defers environmental review of a segment of the project.

BO040-11

2.4.1.1. The EIR discusses the City of Fresno's ongoing General Plan update that is expected to include the city's 9,000 acre Southeast Growth Area ("SEGA"), with the potential to accommodate more than 17,000 additional dwelling units. The buildout of the SEGA is not reflected in Table 2-5 because the General Plan update has not been adopted. This makes the EIR flawed because excludes various analyses of environmental impacts associated with the HST, including impacts on traffic circulation.

Submission BO040 (Merrill N. Dibble, Farmland Reserve, Inc. (Atty. For) Bartkiewicz, Kronick & Shanahan, October 19, 2012) - Continued

BO040-12

2.4.1.4. The EIR section of the sustainability of the Fresno-Yosemite International Airport is inconsistent with the section discussing the airport's viability for intra-city travel in Section 1 of the EIR.

BO040-13

2.4.4.1. The EIR discussion of the Fresno Station-Mariposa alternative, states as follows:

> Currently, Downtown Fresno has a large amount of excess public parking within a mile of the proposed HST station. Based on discussions with the City of Fresno, the balance of spaces needed to satisfy the estimated parking demand (7,400 total spaces) would be accommodated by existing public spaces, without the need for additional parking lots or structures.

The EIR states that the 7,400 parking spaces will be within one mile of the HST station. There is no consideration given to transporting HST patrons from the parking spaces to the HST station. Realistically, patrons will not be able to walk from the parking spaces to the station, particularly if they are carrying luggage. The EIR does not consider the transportation impacts associated with taxiing the patrons from the parking spaces to the HST station and the environmental impacts (traffic circulation, air quality, etc.) associated with this transportation.

BO040-14

2.4.4.2. The EIR discusses the need to meet parking requirements for the Kings/Tulare Regional station as follows:

> "The balance of parking spaces necessary to meet the 2035 parking demand (2,800 total spaces) would be accommodated in downtown Hanford, Visalia, and/or Tulare, with local transit or shuttle services connecting with the station."

The impacts associated with the local transit or shuttle services necessary to transport HST patrons to the Kings/Tulare Regional station are not considered or analyzed in the EIR.

BO040-15

3.14. The EIR states that ". . . the Authority is committed to mitigation, it cannot guarantee that it will be implemented because it is outside the Authority's control" and "The Authority cannot force property owners to accept mitigation measures . . ." With this said, the EIR is proposing traffic circulation mitigation measures that will be the responsibility of other public agencies or private property owners to implement. The EIR concludes that these and other mitigation measures have reduced the traffic circulation impacts of the HST to a level of insignificance. The California High Speed Rail Authority cannot certify the EIR with such mitigation measures because it cannot find evidence that these mitigation measures will actually be implemented. CEQA requires that the Authority find, based on substantial evidence, that the mitigation measures are "required, or incorporated into, the project; or that the measures are the responsibility of another agency and have been, or can and should be, adopted by the other agency; or that mitigation is infeasible and overriding considerations outweigh the significant environmental effects." *Federation of Hillside & Canyon Associations v. City of Los Angeles* (2d Dist. 2000) 83 Cal. App. 4th 1252, 1259.

BO040-16

3.2.5.1. The EIR establishes a traffic circulation standard for road intersections and segments of Level of Service (LOS) D and states that:

> all HST alternatives would provide beneficial transportation impacts beyond providing an additional travel mode and connections to local and regional transit. The change from vehicle to HST would reduce regional and interregional daily auto trips and corresponding vehicle delay and congestion.

The Metropolitan Bakersfield General Plan, which encompasses a very significant portion of the area to be served by the HST, requires that LOS C be achieved despite the above statement. Because the EIR admits the traffic mitigation measures may not be implemented and that the Bakersfield Metropolitan General Plan LOS C be achieved, the above statement proves there is no credible evidence to support the EIR.

BO040-17

3.2.5.3. The EIR does not explain its contradictions to the impacts on traffic stating that construction of the Fresno HST station and various other portions of the project will be considered "moderate" under NEPA and "less than significant" under CEQA.

BO040-18

3.7.5.3. The discussion of habitat loss under several of the alternative routes considered for the HST contain conclusions without reference to any source, scientific or otherwise, that the resulting impacts to protected and other species would be less than significant. An ". . . EIR must reflect the analytic route the agency traveled from evidence to action. The EIR must contain facts and analysis, not just the bare conclusions of a public agency." *Santiago Water District v. County of Orange* (4th Dist. 1977) 69 Cal. App. 3d 818. (See also Guidelines, sec. 15064.)

BO040-19

3.7.6. The EIR states that:

> . . . during project design and construction, the Authority and FRA would implement measures to reduce impacts on air quality and hydrology based on applicable design standards. Implementation of these measures will reduce impacts to biological resources.

This unclear explanation of the design standards does not allow the reader to measure the standards in terms reduced impacts on biological resources. The above statement is simply a conclusion that is not supported by evidence, which is not permitted under CEQA. *Santiago Water District*, supra.

BO040-20

3.7.7. Some of the mitigation measures designed to mitigate impacts to biological resources rely on plans to be developed following certification of the EIR. For example, BIO-MM #7 states:

Submission BO040 (Merrill N. Dibble, Farmland Reserve, Inc. (Atty. For) Bartkiewicz, Kronick & Shanahan, October 19, 2012) - Continued

BO040-20

The contractor's biologist will prepare a plan before the start of ground-disturbing activities to address monitoring, salvage, relocation, and propagation of special status plant species.

It is not possible to judge whether this plan will reduce impacts on special status plant species to a level of insignificance, as the EIR maintains, without reviewing the plan. The EIR fails to include substantial evidence to support the conclusion that impacts to special status plant species will be reduced to a level of insignificance because, in this case, the biologist's plan is not available for review.

BO040-21

BO040-22

3.7.9. The EIR concludes that all impacts to biological resources will be reduced to a level of insignificance as a result of the mitigation measures imposed while also stating that impacts under NEPA will be moderate to substantial. Once again, the EIR does not explain how these contradictory conclusions were reached.

BO040-23

3.14.5.3. The EIR discusses the issue of permanent conversion of agricultural land to non-agricultural uses as a result of implementation of the HST project. However, remnant agricultural parcels left in the wake of acquisition of the rights-of-way for the HST that are not of sufficient size to be economical for farming purposes. IMPACT AG #4 states that farmland conversion to non-agricultural uses analyzed in the EIR "reflects a 15% design level" and "As the design develops, this assessment will continue to be updated for the current property acquisition requirements." This approach is classic piecemealing, which, as stated above is forbidden under both CEQA and NEPA. If the California High Speed Rail Authority wants to go with this approach, another EIR must be conducted prior to acquisition that asses and illustrates the impacts on agricultural lands and the mitigation measures implemented to reduce such impacts.

BO040-24

BO040-25

Thank you for your attention to these comments.

Sincerely,

Merrill N. Dibble

Merrill N. Dibble
Assistant Vice President of Operations

pg. 6

Response to Submission BO040 (Merrill N. Dibble, Farmland Reserve, Inc. (Atty. For) Bartkiewicz, Kronick & Shanahan, October 19, 2012)

BO040-1

Refer to Standard Response FB-Response-GENERAL-20, FB-Response-GENERAL-01.

Substantial evidence shows that the Authority has properly tiered, not piecemealed, its environmental review of the HST System. Based on two first-tier program environmental impact reports (EIRs), the Authority selected track technology, general track alignments, and preferred station locations. Subsequently, the Authority divided the HST System into geographically smaller pieces, called HST sections, for second-tier EIRs. Moving from a first-tier project to a more limited geographic scope second-tier project is precisely what tiering is for. (Pub. Res. Code §21093; CEQA Guidelines §15152.) At a practical level, the HST System is simply too big to be addressed in a single second-tier EIR, or even just two or three. It was within the Authority's discretion to define the second-tier projects, and the only question is whether the Authority's selected division of the second-tier projects is supported by substantial evidence. The record shows it is.

The Authority originally defined a single project and EIR for Merced to Bakersfield, but later revised it into two second-tier projects- the Merced to Fresno (65 miles) and Fresno to Bakersfield (114 miles) sections, both of which include portions of the proposed IOS.

This smaller project definition was reasonable. Each project has logical termini at cities selected to have HST stations at the first tier, has sufficient length to allow for an analysis of environmental impacts on a broad scope, and has independent utility separate and apart from any other section (see Del Mar Terrace Conservancy, Inc. v. City Council of the City of San Diego (1992) 10 Cal.App.4th 712, 733 [upholding EIR that treated as the "project" at issue one freeway segment within a long-term, multi-segment regional plan].)

BO040-2

Refer to Standard Response FB-Response-GENERAL-01, FB-Response-GENERAL-20.

BO040-3

Refer to Standard Response FB-Response-GENERAL-20, FB-Response-GENERAL-01.

BO040-4

Refer to Standard Response FB-Response-GENERAL-01, FB-Response-GENERAL-20.

BO040-5

Refer to Standard Response FB-Response-GENERAL-20, FB-Response-GENERAL-01.

The Authority disagrees with the commenter's assertion that the cumulative analysis fails to account for cumulative impacts associated with the entire HST System by "piecemealing" the environmental analysis. As required under CEQA and NEPA, the analysis of cumulative impacts in Section 3.19 identifies the project's contributions to significant cumulative impacts (see Section 3.19.4.2). This analysis includes other past, present, and reasonably foreseeable future projects that may result in environmental impacts similar to those identified for the HST Fresno to Bakersfield section. The adjacent HST sections (Merced to Fresno and Bakersfield to Palmdale) are addressed in the cumulative impacts analysis because these sections are located in close enough proximity to the Fresno to Bakersfield section to potentially contribute to cumulative impacts.

Analyzing the Fresno to Bakersfield Section's contributions in light of the cumulative impacts associated with the entire system does not make sense. First, the areas of concern related to the cumulative impacts to which the Fresno to Bakersfield Section would contribute are, except as noted below, are not statewide in nature. The Revised DEIR/Supplemental DEIS is tiering by considering the broad policy decisions previously reached about the system (e.g., electric propulsion with steel wheels on steel rails) that are based on the program EIRs as the starting point for a more detailed analysis of the impacts of implementing the HST System from Fresno to Bakersfield and using the previous program documents as reference documents for the analysis. The Revised DEIR/Supplemental DEIS is also tiering by relying on the analysis in the previous program EIR/EISs that address the impacts of the full 800-mile system and the cumulative impacts of the system as a whole.

Second, examining the contribution of the Fresno to Bakersfield Section in the context of a statewide system would make its contribution appear smaller, thereby minimizing its contribution. This would result in an underestimation of how considerable the contribution might be.

Response to Submission BO040 (Merrill N. Dibble, Farmland Reserve, Inc. (Atty. For) Bartkiewicz, Kronick & Shanahan, October 19, 2012) - Continued

BO040-5

The areas of concern for cumulative impacts vary by resource topic. For example, for air quality the affected area is the San Joaquin Valley air basin, for greenhouse gases and energy the area is the state of California, for agriculture it is the four-county area, and for noise it is the area along the alignment that would be affected by the HST System. These adequately characterize the cumulative impacts based on the context of the particular impact. Noise, for example, does not need to study an area beyond what would be affected by the incremental contribution of the HST System. Beyond that area, the HST makes no difference in noise levels. Air quality, however, must consider the project in the context of the air basin because that is a regional concern defined by the area of cumulative air quality concern to which the project would contribute.

The key aspect of the cumulative impact analysis is to disclose the severity of the project's incremental contribution to the cumulative effect. The EIR/EIS has complied with this requirement.

As noted in Standard Response FB-Response-GENERAL-01 (Tiering and Level of Detail in Analysis and Mitigation), both CEQA and NEPA provide agencies with some discretion to fashion an environmental process as appropriate for the actions or projects they are considering. Program or Tier 1 EIR/EISs are deliberately focused on the “big-picture” impacts of proposed actions and the broad policy choices related to such actions. To avoid repetition and to help focus the document on issues ripe for decision, a lead agency may tier its environmental documents so that later Program or Tier 2 EIR/EIS documents incorporate and build on the analysis and decisions made at the Program level.

The Fresno to Bakersfield Section is one portion of the larger HST System described in the 2005 Statewide Program EIR/EIS (Authority and FRA 2005), the subsequent 2008 Bay Area to Central Valley Final Program EIR/EIS (Authority and FRA 2008), and the 2010 Revised Final Program EIR/EIS (Authority and FRA 2010) addressing the Bay Area to Central Valley connection for the HST System.

BO040-6

The Authority does not agree with the assertion in this comment that the EIR/EIS does not contain an accurate statement of purpose and the goal of the HST is not clearly

BO040-6

defined. The EIR/EIS provides a clear, concise statement of the purpose of the California HST System in Section 1.2.1 and a clear, concise statement of the purpose of the Fresno to Bakersfield Section of the HST System in Section 1.2.2. The EIR/EIS documents the need for the project in Section 1.2.4.

BO040-7

The analysis of inter-city air service presented in Section 1.2.4.1 is not flawed because it is based on the FAA report on airport capacity, which states that the Los Angeles Metropolitan Area needs increased air service capacity (FAA 2007). That study included the following airports in the metropolitan area: Bob Hope, Long Beach-Daugherty Field, Los Angeles International, Ontario International, Palm Springs International, and John Wayne-Orange County.

BO040-8

Refer to Standard Response FB-Response-GENERAL-13.

BO040-9

Refer to Standard Response FB-Response-GENERAL-13.

BO040-10

Refer to Standard Response FB-Response-PU&E-01.

As the project design progresses and refinements are made, additional information will become available. The Authority and FRA will consider whether changes in design, changes in circumstances, or new information will result in a new or more severe environmental impact. In those cases, subsequent or supplemental environmental analyses will be undertaken consistent with California Environmental Quality Act (CEQA) Guidelines Sections 15162–15164 and FRA Procedures for Considering Environmental Impacts (64 Federal Register [FR] 101, page 28545, section 13[c]17). This process will result in additional CEQA and National Environmental Policy Act (NEPA) review, as required under those laws.

Response to Submission BO040 (Merrill N. Dibble, Farmland Reserve, Inc. (Atty. For) Bartkiewicz, Kronick & Shanahan, October 19, 2012) - Continued

BO040-11

The EIR/EIS does not exclude any analyses of environmental impacts associated with the HST. As stated in Section 2.4.1, the potential capacity of the SEGA is not reflected in Table 2-5 because the City of Fresno's general plan update has not been adopted. As growth projections were made at a countywide level, they are not as detailed as the analysis of direct impacts. A detailed analysis of the project impacts on traffic circulation are provided in Section 3.2 Transportation.

BO040-12

The discussions of the Fresno-Yosemite International Airport (FAT) in both Chapters 1 and 2 are consistent. Chapter 1 states that “Air travel to and from Fresno-Yosemite International Airport and Meadows Field Airport does not competitively serve south San Joaquin Valley residents when compared with automobile travel. As shown in Table 1-5, air travel to and from these airports is restrained by the limited number of flights offered, and origin and destination airports served.” Chapter 2 states that “studies have shown that demand at FAT is suppressed by market forces including air fares, the availability of automobile travel, and alternative airports in the Bay Area, Sacramento, and Los Angeles (Council of Fresno Governments 2010a). A significant number of potential passengers (possibly as high as 300,000 a year) who might use intrastate air service, if available and competitively priced, instead are making auto trips to their destination or to other state airports. These market forces will influence the growth in future operations at the airport.”

Both discussions focus on the underutilization of FAT by the local population and the much lower number of enplanements when compared to similar areas such as Sacramento. Due to the low utilization of the airport, both sections discuss that the airport does not offer much intrastate service and that people are instead making auto trips.

BO040-13

A 1-mile study area radius was used to inventory existing parking at the proposed station locations. As ridership expands over time and the demand for parking is not being satisfactorily met, additional parking will be developed.
The Authority would work with local jurisdictions and other interested parties to phase the parking supply to support HST ridership demand and the demand of other uses in

BO040-13

the vicinity of the station. The stations have not yet been designed (the illustrations in the EIR/EIS are conceptual) and will not be designed for several years. Similarly, actual ridership levels are not known at this time. As discussed in Section 2.2.3, Stations, of the Revised DEIR/Supplemental DEIS: “Parking demand expectations are based on HST System ridership forecasts where parking availability is assumed to be unconstrained – meaning 100% of parking demand is assumed to be met. These projections provide a 'high' starting point to inform discussions with cities where stations are proposed. While this Revised Draft EIR/Supplemental Draft EIS identifies locations for parking facilities needed to satisfy the maximum forecast demand, parking is anticipated to be developed over time in phases, while also prioritizing access to the HST System through other modes such as transit, which could lead to less parking being necessary."

BO040-14

As stated in Section 2.4.4, Station Alternatives, of the Final EIR/EIS, reducing the number of parking spaces provided at the station would allow for more open space areas, discourage growth at the station, encourage revitalization of the downtowns of Hanford, Visalia, and/or Tulare, and contain the development footprint of the station. Location of station parking in downtown areas would be identified in consultation with local communities to avoid traffic congestion and may require additional environmental review.

The characteristics of future shuttle connections between HST stations and parking areas are unknown. Absent basic information about the connections, any analysis of future shuttles would be purely speculative.

BO040-15

Refer to Standard Response FB-Response-BIO-02.

As described in Section 3.1.4, Legal Authority to Implement Offsite Mitigation, it is anticipated that local governments would prefer traffic mitigation over traffic congestion and would work with the Authority to implement traffic mitigation. The Authority has continued to work with local governments to confirm that traffic mitigation meets the identified performance standards in Section 3.2, Transportation, and can be

Response to Submission BO040 (Merrill N. Dibble, Farmland Reserve, Inc. (Atty. For) Bartkiewicz, Kronick & Shanahan, October 19, 2012) - Continued

BO040-15

accomplished. Other mitigation measures that would affect public and private property owners include, for example, noise insulation at private residences or public buildings or conservation of agricultural lands through conservation easements. Although the Authority cannot force these property owners to accept mitigation measures, many measures would benefit the properties and some would provide funding to willing sellers in selected instances, such as for the acquisition of agricultural conservation easements. For these reasons, it is considered likely that the mitigation can be accomplished. Based on these facts, the circumstances are distinguishable from those presented in *Federation of Hillside & Canyon Associations v. City of Los Angeles* (2000) Cal.App.4th 1252, 1259, cited by the commenter.

BO040-16

The HST project is a federal and state project, and therefore not required to meet the City of Bakersfield level of service (LOS) standards. The general criterion of "an increase in traffic that is substantial in relation to the existing traffic load and capacity" is applicable to the project-level analysis, as follows: To appropriately apply this general criterion to detailed analysis of each specific roadway system element (i.e., roadway segments, signalized intersections, and unsignalized intersections), the existing local standards and thresholds used in traffic analyses for potential station locations in 26 cities within 16 counties were examined. With that information, uniform, specific methods and criteria for traffic analysis of each roadway system element were derived at the level of detail necessary for project analysis. These include deterioration in LOS to below D, addition of 0.04 to the volume-to-capacity (V/C) ratio for roadway segments already operating or projected to operate at LOS E or F (i.e., urban areas where a majority of the HST stations are anticipated to be located), and increase in delay of 4 seconds at signalized intersections and of 5 seconds at unsignalized intersections.

BO040-17

As defined in Section 3.2.3, Methods for Evaluating Impacts, pursuant to Council on Environmental Quality NEPA regulations (40 CFR 1500-1508), project effects are evaluated based on the criteria of context and intensity. Context means the affected environment in which a proposed project occurs. Intensity refers to the severity of the effect, which is examined in terms of the type, quality, and sensitivity of the resource involved, location and extent of the effect, duration of the effect (short- or long-term),

BO040-17

and other considerations. Beneficial effects are identified and described. When there is no measurable effect, impact is found not to occur. The intensity of adverse effects is the degree or magnitude of a potential adverse effect, described as negligible, moderate, or substantial. Context and intensity are considered together when determining whether an impact is significant under NEPA. Thus, it is possible that a significant adverse effect may still exist when, on balance, the impact has negligible intensity, or even if the impact is beneficial. In the context of the CEQA and NEPA definitions, the Final EIR/EIS provides results of traffic analysis associated with the project and, where appropriate, design features or mitigation measures.

BO040-18

Refer to Standard Response FB-Response-GENERAL-14.

Survey results and methods of analysis used for effect and impact determinations of habitat loss are presented in Section 3.7.3, Methods for Evaluating Impacts. Data gathered during literature review (Section 3.7.3.2) and field surveys (Section 3.7.3.3) were evaluated according to the methodology presented in Section 3.7.3.4. Effects under NEPA were evaluated according to the methods presented in Sections 3.7.3.5, and 3.7.3.6. Determinations for the effects and impacts on biological resources, including habitat loss, are presented in Section 3.7.5, Environmental Consequences.

BO040-19

The project design features referenced in Section 3.7.6 are described in detail in Section 3.8, Hydrology and Water Resources, of the EIR/ EIS. They are included in the project design to comply with specified regulations and to avoid or minimize negative effects to water quality: Project Design Features for Stormwater Management and Treatment; Construction Stormwater Pollution Prevention Plan; and Industrial Stormwater Pollution Prevention Plan. By avoiding or minimize negative effects to water quality, these design features would avoid and/or minimize potential impacts on biological resources, including jurisdictional waters (Impacts BIO #3 and #7) and special-status wildlife and plants (Impacts BIO #1, 2, 5, and 6).

Specifically, these design features require the implementation of measures to prevent

Response to Submission BO040 (Merrill N. Dibble, Farmland Reserve, Inc. (Atty. For) Bartkiewicz, Kronick & Shanahan, October 19, 2012) - Continued

BO040-19

potential construction and project impacts on jurisdictional waters, such as reduced water quality due to leaks, spills, erosion, or siltation. Additionally, these measures would reduce potential adverse effects on the numerous special-status wildlife and plant species (e.g., vernal pool fairy shrimp, western pond turtle, little mouse tail) that rely on aquatic habitats for part or all of their life cycle.

Section 3.3.8, Project Design Features, Air Quality and Global Climate Change, of the EIR/ EIS, summarizes measures that would be implemented as part of the project to reduce dust emissions. These measures would avoid or minimize dust-related impacts on biological resources, including special-status plants (Impact BIO #1 and #5), protected trees, and jurisdictional waters (Impacts BIO #3 and #7). Potential dust-related impacts on special-status plants and protected trees include a reduction in their photosynthetic capability (especially during flowering periods) and increased siltation, which would also have an adverse effect on jurisdictional waters.

BO040-20

Refer to Standard Response FB-Response-BIO-02.

The mitigation measures in Section 3.7 have been designed to mitigate impacts on biological resources and rely, in some instances, on the preparation and execution of plans following certification of the document. However, the mitigation measures that contain plans also identify the specific content and performance criteria that will be included in such a plan. With implementation of the plan, avoidance, minimization, and mitigation of impacts on biological resources will be achieved. As an example, Mitigation Measure BIO-17 (which appears to have been mistakenly referenced as Mitigation Measure BIO-7 in the commenter's letter) includes the types of activities that need to be addressed (e.g., monitoring, salvage, relocation, and propagation); how the plan would be approved and who would approve the movement of species (e.g., Project Biologist, and appropriate regulatory agencies); and the provisions that will be provided in the plan for the establishment of plant population(s) and performance (success) criteria.

BO040-21

Refer to Standard Response FB-Response-BIO-02.

The EIR/EIS does not fail to include evidence to support the conclusions based on the mitigation measures. Bio-MM#17 (which appears to have been mistakenly referenced as Bio-MM#7 [sic] in the commenter's letter) contains a plan which includes the types of activities that need to be addressed (e.g., monitoring, salvage, relocation, and propagation); how the plan would be approved and who would approve the movement of species (e.g., Project Biologist, and appropriate regulatory agencies); and the provisions that will be provided in the plan for the establishment of plant population(s) and performance (success) criteria. (See *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 945-947 [upholding deferral of biological mitigation measures where performance standards will be achieved].)

BO040-22

In Section 3.7.8, NEPA Impacts Summary, of the Revised DEIR/Supplemental DEIS, Tables 3.7-18 through 3.7-20 summarize the intensity of the effects under NEPA. Later in that section, the overall effect of the HST project on biological resources is determined for each resource type through consideration of the intensity of the project's effects, the context in which these effects occur, and the measures implemented to mitigate the impacts of the project. The determinations made in this section are consistent with the determinations made in the following section (Section 3.7.9, CEQA Significance Conclusions), which summarizes the level of significance of the project under CEQA after mitigation as less than significant, not insignificant.

BO040-23

Refer to Standard Response FB-Response-SO-01, FB-Response-AG-03.

BO040-24

Refer to Standard Response FB-Response-GENERAL-21.

The project footprint used at the 15% design level is larger than that likely to be included for final design. It represents a worst-case scenario, and impacts are expected to be slightly less than those reported in the REIR/SEIS.

Response to Submission BO040 (Merrill N. Dibble, Farmland Reserve, Inc. (Atty. For) Bartkiewicz, Kronick & Shanahan, October 19, 2012) - Continued

BO040-25

Refer to Standard Response FB-Response-GENERAL-20, FB-Response-SO-01.

Because the project footprint used at the 15% design level is larger than that of the final design and represents a worst case scenario, as described above, another EIR will not be required. Should the project footprint exceed the area of analysis due to later design refinements, the Authority will review the change pursuant to CEQA Guidelines Sections 15162-15164, FRA Procedures for Considering Environmental Impacts 64FR101, page 28545 (section 13.c.(17)), and any related Authority procedures to determine whether that change would require subsequent environmental analysis and the level of analysis required.

Following Authority certification of the EIR and project approval, and FRA issuance of a Record of Decision for the EIS, parcel acquisition may begin using the 15% design, but will be refined as engineering design advances.

Submission BO041 (Colleen Kohns, First Baptist Church, October 18, 2012)

CALIFORNIA High-Speed Rail Authority

RECEIVED 10/18/2012

Comment Card
Tarjeta de Commentarios

Fresno to Bakersfield High-Speed Train Section
Revised Draft Environmental Impact Report/ Supplemental Draft Environmental Impact Statement (Revised Draft EIR/Supplemental Draft EIS)

La Sección de Fresno a Bakersfield del Tren de Alta Velocidad
Proyecto Revisado de Informe de Impacto Ambiental/ Declaración de Impacto Ambiental Proyecto Suplementario (Proyecto Revisado EIR/Proyecto Suplementario EIS)

Please submit your completed comment card at the end of the meeting, or mail to:
Fresno to Bakersfield Revised Draft EIR/Supplemental Draft EIS Comment, 770 L Street, Suite 800, Sacramento, CA 95814

Por favor entregue su tarjeta completada al final de la reunión, o enviela por correo a la siguiente dirección:

The comment period is from July 20 to September 20, 2012. Comments must be received electronically, or postmarked, on or before September 20, 2012.

El periodo de comentario es del 20 de Julio al 20 de Septiembre del 2012. Los comentarios tienen que ser recibidos electrónicamente, o matasellados, el o antes del 20 de Septiembre del 2012.

Name/Nombre: Colleen D Kohns
Organization/Organización: First Baptist Church, Hanford
Address/Domicilio: 1754 Chimney Way, Lemoore, CA 93245
Phone Number/Número de Teléfono: 559-925-8798
City, State, Zip Code/Ciudad, Estado, Código Postal:
E-mail Address/Correo Electrónico: cdkohns@att.net
(Use additional pages if needed/Usar paginas adicionales si es necesario)

BO041-1 The DEIR/S bases impacts on an unrealistically small footprint. As a member of the First Baptist congregation having a train run within a ½ mile of our building at 99 Db will disrupt our weekly services, Bible Studies and special events such as weddings, and funerals.

BO041-2 In addition, the vibration could result in a safety hazard for our choir during our Christmas. We have a Christmas tree structure that stands approximately 27 feet and the choir stands in this structure for ~~approximately~~ 3 to 4 performances (approximately 1 hour each) each Christmas season. While it is properly secured, the additional train vibration could result in loosening of the tie-downs, resulting in safety concerns

Response to Submission BO041 (Colleen Kohns, First Baptist Church, October 18, 2012)

BO041-1

Refer to Standard Response FB-Response-N&V-03, FB-Response-N&V-04, FB-Response-N&V-05.

BO041-2

Your church is over 1,000 feet from the closest proposed alternative alignment. The distance to the 75 VdB criterion level for vibration for institutional land uses for an at-grade HSR alignment is 62 feet. You are well beyond the 62-foot vibration contour distance, and the church will not be impacted by vibration caused by HSR operations.

Submission BO042 (Laura S. Ainsworth, First Baptist Hanford, October 18, 2012)

CALIFORNIA High-Speed Rail Authority

Comment Card
Tarjeta de Commentarios

Fresno to Bakersfield High-Speed Train Section
Revised Draft Environmental Impact Report/ Supplemental Draft Environmental Impact Statement (Revised Draft EIR/Supplemental Draft EIS)

La Sección de Fresno a Bakersfield del Tren de Alta Velocidad
Proyecto Revisado de Informe de Impacto Ambiental/ Declaración de Impacto Ambiental Proyecto Suplementario (Proyecto Revisado EIR/Proyecto Suplementario EIS)

Please submit your completed comment card at the end of the meeting, or mail to:
Por favor entregue su tarjeta completada al final de la reunión, o enviela por correo a la siguiente dirección:
Fresno to Bakersfield Revised Draft EIR/Supplemental Draft EIS Comment, 770 L Street, Suite 800, Sacramento, CA 95814

The comment period is from July 20 to September 20, 2012. Comments must be received electronically, or postmarked, on or before September 20, 2012.

El periodo de comentario es del 20 de Julio al 20 de Septiembre del 2012. Los comentarios tienen que ser recibidos electrónicamente, o matasellados, el o antes del 20 de Septiembre del 2012.

Name/Nombre: Laura S. Ainsworth
Organization/Organización: First Baptist Hanford
Address/Domicilio: 2020 Woodridge Way Hanford CA 93230
Phone Number/Número de Teléfono: 559 / 582-8096
City, State, Zip Code/Ciudad, Estado, Código Postal: Hanford CA 93230
E-mail Address/Correo Electrónico:
(Use additional pages if needed/Usar paginas adicionales si es necesario)

BO042-1 The DEIR/S fails to describe the project's impact on land use. The DEIR/S find that the project impacts will be less than significant when taking into consideration the total percent of land impacted. The DEIR/S bases impacts on an unrealistically small project foot print - the foot print will considerably larger due to noise and vibration (example – our church). We (First Baptist Hanford) have services and programs throughout the week which will definitely be impacted.

BO042-3 For this reason or reasons it is not possible for the DEIR/S to have accurately and completely described the impact of the project. A revised DEIR/S must be prepared to address these omissions and recirculated for 180-day public comment period.

BO042-4 Please consider IF as a possibility.

Response to Submission BO042 (Laura S. Ainsworth, First Baptist Hanford, October 18, 2012)

BO042-1

Refer to Standard Response FB-Response-LU-02, FB-Response-LU-03.

The Revised DEIR/Supplemental DEIS states that the HST alternatives would result in the permanent conversion of land to transportation uses, which in many locations would be incompatible with existing land uses. Although the amount of land affected by the conversion of uses under the HST alternatives would be a relatively small percent of the four-county study area (approximately 4,000 acres, or less than 0.01%), there is the potential for significant land use incompatibilities to occur. As stated in Section 3.19.4 of the Revised DEIR/Supplemental DEIS, cumulative land use impacts would be substantial under NEPA, and significant under CEQA because of changes in land use that could result from implementation of the HST alternatives. The HST alternatives' contribution to this impact would be substantial under NEPA, and cumulatively considerable under CEQA.

Impacts on land uses are discussed in Section 3.4.5.3, Noise.

BO042-2

Refer to Standard Response FB-Response-N&V-03, FB-Response-N&V-04, FB-Response-N&V-05.

BO042-3

The noise and vibration impacts and the direct impacts of land disturbance are described in the EIR/EIS. Noise and vibration impacts are discussed in Section 3.4.5 of the EIR/EIS.

BO042-4

Refer to Standard Response FB-Response-GENERAL-02.

Submission BO043 (Jeff Fleming, Gaspar Dairy via Western Dairy Design Associates, Inc., October 15, 2012)

Fresno - Bakersfield (July 2012+) - RECORD #292 DETAIL

Status :	Action Pending
Record Date :	10/17/2012
Response Requested :	Yes
Affiliation Type :	Businesses and Organizations
Interest As :	Businesses And Organizations
Submission Date :	10/15/2012
Submission Method :	Project Email
First Name :	Jeff
Last Name :	Fleming
Professional Title :	
Business/Organization :	Gaspar Dairy via Western Dairy Design Associates, Inc.
Address :	7615 7 1/2 Avenue
Apt./Suite No. :	
City :	Hanford
State :	CA
Zip Code :	93230
Telephone :	209-848-8674
Email :	jefflem@dairydesigners.com
Email Subscription :	
Cell Phone :	
Add to Mailing List :	
Stakeholder Comments/Issues :	NOTE: I am a consultant for Gaspar Dairy, 7615 7 1/2 avenue, Hanford.

BO043-1

In Technical Appendix 3.24-B, regarding parcel 01409000700, on Figures B-6 and
B-7,

The legend for the figues is not clearly explained, but I am assuming that "ww"
stands for parcels irrigated with animal wastewater.

BO043-2

This parcel 01409000700 should be outlined in green as farmland type WW, as this
entire parcel is irrigated with wastewater from the dairy lagoon. A pipeline
under the HSR right of way is required in order to get lagoon water to the
portion of the parcel to the west of the right of way.

Jeff Fleming

Western Dairy Design Associates, Inc.

OFF: 209-848-8674

CEL: 209-840-0363

FAX: 209-848-8654

jefflem@dairydesigners.com

EIR/EIS Comment :	Yes
Official Comment Period :	Yes

Response to Submission BO043 (Jeff Fleming, Gaspar Dairy via Western Dairy Design Associates, Inc., October 15, 2012)

BO043-1

WW stands for Waste Water (parcels highlighted in green). This is a parcel that is permitted to accept waste water from an agricultural operation. CAA stands for Confined Animal Agriculture (parcels highlighted in yellow). These parcels are permitted to have animal operations, such as dairies.

BO043-2

Refer to Standard Response FB-Response-AG-04.

Please see Appendix 3.14-B in the Final EIR/EIS for the changes to parcel 014090007000, which are outlined in green.

Submission BO044 (Jeff Meger, Grimmway Farms, October 19, 2012)

A family of *Growing* companies.

RECEIVED 10/19/2012

October 17, 2012

Mr. Jeff Morales
California High-Speed Rail Authority
Fresno to Bakersfield Revised Draft EIR/Supplemental Draft EIS Comment
770 L Street Suite #800
Sacramento, California 95814

Subject: Comments Regarding the Fresno to Bakersfield High-Speed Train Draft EIR

Dear Mr. Morales,

Thank you for the opportunity to review and comment on the Draft EIR (DEIR) for the Fresno to Bakersfield section of the high-speed train (HST) system proposed by the California High-Speed Rail Authority (Authority). Grimmway Farms along with adjacent land owners represent over 3,000 acres of land in northwest metropolitan Bakersfield which have been approved for and are anticipated to be developed with urban land uses over the next twenty years. Millions of dollars have been and continue to be spent for these entitlements to place these acres of land in the position for the development forecasted in the Metropolitan Bakersfield. We have been coordinating with Authority staff and consultants over the past two years. In conjunction with local agencies, we have met with and provided significant information and comments on HST impacts to roadways and circulation in the northwest Bakersfield area. Our comments have focused on impacts to roadways along the Santa Fe Way corridor from Seventh Standard Road to just north of Hageman Road and have included the HST crossings of Renfro/Jenkins/Reina Roads, Kratzmeyer Road, the West Beltway and Seventh Standard Road.

BO044-1

The current version of the HST plans contained in the DEIR do not adequately reflect roadway improvements required to be constructed by the Authority in order to mitigate the impacts created by the HST along the Santa Fe Way corridor. The construction of limited, two-lane rural/agricultural roadway connections over the HST

BO044-1

along the Santa Fe Way corridor, at locations where city standard six-lane urban arterials and the West Beltway are planned within the near future (as defined in the Regional Transportation Plan), will severely restrict circulation in the northwest Bakersfield area. This restriction in circulation and roadway connectivity will severely limit the ability of planned developments to proceed and cause significant damages to land values on thousands of acres anticipated for residential, commercial and industrial development within the next twenty years. The landowners' inability to proceed with their entitlements could result in the loss of hundreds of millions of dollars and the jobs associated with the development of the property. Therefore, the following roadway improvements shall be constructed along the Santa Fe Way corridor by the Authority in order to mitigate roadway and circulation impacts created by the HST.

BO044-2

Santa Fe Way

Designated as an arterial: six lanes with concrete curb and gutter and a raised center median within 110 feet of right of way

Traffic conditions to 2035 warrant a minimum of four lanes; therefore, the Authority shall be responsible for the following:

- Obtaining 110 feet of replacement right of way from approximately 2,200 feet north of Hageman Road to Seventh Standard Road
- Relocating existing utilities and similar facilities (e.g., gas, water, sewer, oil, fiber optic and electrical) that lie within the existing Santa Fe Way right of way to a location within the 110 feet of replacement right of way, or confirm alternate arrangements with facility owners
- Constructing a four-lane roadway with 12-foot travel lanes from approximately 2,200 feet north of Hageman Road to Seventh Standard Road
    - Use a minimum design speed of 65 mph
    - Include a 14-foot raised center median with stamped concrete and concrete curbs to accommodate future expansion to ultimate arterial standard
    - Construct paved shoulder and concrete curb and gutter on east side
    - Construct paved shoulder and bike lane on west side

Submission BO044 (Jeff Meger, Grimmway Farms, October 19, 2012) - Continued

BO044-2

- Install fencing adjacent to HST right of way
- Plant xeriscape landscaping on east side

- Constructing 12-foot right-turn lanes with 120-foot bay tapers and 150-foot storage at the intersections of Kratzmeyer Road/Santa Fe Way connector road, realigned Reina Road, and Renfro Road/Santa Fe Way connector road
- Constructing 12-foot left-turn lanes with 120-foot bay tapers and 200-foot storage at the intersections of Kratzmeyer Road/Santa Fe Way connector road, realigned Reina Road, and Renfro Road/Santa Fe Way connector road
- Installing traffic signal systems at the intersections of Santa Fe Way and Kratzmeyer Road/Santa Fe Way connector road and Santa Fe Way and Renfro Road/Santa Fe Way connector road
- Installing traffic signal interconnect conduit and wiring between the traffic signal systems along Santa Fe Way from Galpin Road to Hageman Road

BO044-3

Seventh Standard Road

Designated as an expressway: six lanes with concrete curb and gutter and a raised center median within 110 feet of right of way

Existing grade separation at BNSF Railway

The Authority shall be responsible for the following:

- Obtaining right of way necessary to extend the existing overcrossing to span BNSF, HST and Santa Fe Way rights of way
- Relocating existing utilities and similar facilities (e.g., gas, water, sewer, oil, fiber optic and electrical) which conflict with the overcrossing extension
- Reconstructing and extend existing overcrossing
  - Use a minimum design speed of 60 mph
  - Install street lighting on bridge structure
  - Construct drainage facilities on bridge structure
  - Construct concrete curb, gutter and sidewalk
- Constructing roadway drainage facilities compatible with future adjacent

3 of 20

BO044-3

development (i.e., sump rather than ditches)

- Planting xeriscape landscaping – slopes, parkways and medians
- Relocating/reconfiguring existing intersections which conflict with the overcrossing extension
  - Signalized intersection of Seventh Standard Road and Galpin Street
  - Access to property located south of Seventh Standard Road and east of BNSF Railway

BO044-4

West Beltway

Future freeway: ultimate six lanes, near-term four lanes within 210 feet of right of way

The Authority shall be responsible for the following:

- Obtaining right of way necessary for a full freeway width grade separation spanning BNSF, HST and Santa Fe Way rights of way
  - Tapering from 210 feet at touchdown points to approximately 320 feet at bridge abutments
  - Total structure length approximately 600 feet
- Relocating existing utilities and similar facilities (e.g., gas, water, sewer, oil, fiber optic and electrical) which conflict with the grade separation
- Constructing grade separation structure to accommodate six lane width
  - Width of 96 feet between flow lines, a raised center median , concrete curb and gutter, and appropriate railing and fencing on both sides of the roadway structure
  - Use a minimum design speed of 65 mph for vertical curve design
  - Install street lighting on bridge structure
- Constructing grade separation embankment to a width adequate to accommodate a six lane freeway
- Constructing four 12-foot lanes with shoulders from the bridge abutments to the touchdown points with a 32-foot center median
- Constructing roadway drainage facilities compatible with future adjacent development (i.e., sump rather than ditches)
- Planting xeriscape landscaping – slopes, parkways & medians

4 of 20

Submission BO044 (Jeff Meger, Grimmway Farms, October 19, 2012) - Continued

BO044-5

Kratzmeyer Road

Designated as an arterial: six lanes with concrete curb and gutter and a raised center median within 110 feet of right of way

Planned grade separated crossing of BNSF Railway

Traffic conditions to 2035 warrant a minimum of six lanes; therefore, the Authority shall be responsible for the following:

- Obtaining right of way necessary for a full arterial width grade separation spanning BNSF, HST and Santa Fe Way rights of way
  - Tapering from 110 feet at touchdown points to 310 feet at bridge abutments
  - Total structure length approximately 500 feet
- Relocating existing utilities and similar facilities (e.g., gas, water, sewer, oil, fiber optic and electrical)which conflict with the grade separation
- Realigning existing canal
- Constructing grade separation structure to accommodate full width arterial street cross section
  - Width of 96 feet between flow lines, a raised center median (minimum 4 feet in width), concrete curb, gutter and sidewalk, and appropriate railing and fencing on both sides of the roadway structure
  - Use a minimum design speed of 65 mph for vertical curve design
  - Install street lighting on bridge structure
  - Construct concrete curb, gutter and sidewalk
- Constructing grade separation embankment to a width adequate to accommodate a full width arterial street
- Constructing six 12-foot lanes from the bridge abutments to the touchdown points, with a 14-foot raised center median
- Constructing roadway drainage facilities compatible with future adjacent development (i.e., sump rather than ditches)
- Providing bike lanes
- Planting xeriscape landscaping – slopes, parkways & medians
- Constructing an intersection with the Kratzmeyer Road/Santa Fe Way

5 of 20

BO044-5

connector road and provide left- and right-turn channelization and install traffic signal system.

BO044-6

Kratzmeyer Road/Santa Fe Way connector Road

The Authority shall construct a four-lane roadway within 90 feet of right of way to provide connectivity between Kratzmeyer Road and Santa Fe Way

- Use a design speed of 40 mph for horizontal curve design
- Provide left- and right-turn channelization at intersections

Approximate points of connection

- Kratzmeyer Road: 1,270 feet west of Santa Fe Way
- Santa Fe Way: 1,450 feet north of Kratzmeyer Road

Roadway length: 980 feet (approximate)
Roadway width: 68 feet

BO044-7

Renfro Road/Jenkins Road

Designated as an arterial: 6 lanes with concrete curb and gutter and a raised center median within 110 feet of right of way

Planned grade separated crossing of BNSF Railway

Traffic conditions to 2035 warrant minimum of 4 lanes, standard arterial width is 6 lanes. Therefore, the Authority shall be responsible for the following:

- Obtaining right of way necessary for a full arterial width grade separation spanning BNSF, HST and Santa Fe Way rights of way
  - Tapering from 110 feet at touchdown points to 310 feet at bridge abutments
  - Total structure length approximately 350 feet
- Relocating existing utilities and similar facilities (e.g., gas, water, sewer, oil, fiber optic and electrical)which conflict with the grade separation
- Relocating existing North Kern Water Storage District canal and sump

6 of 20

Submission BO044 (Jeff Meger, Grimmway Farms, October 19, 2012) - Continued

BO044-7

- Constructing grade separation structure to accommodate full width arterial street cross section
  - Distance of 96 feet between flow lines, a raised center median (minimum 4 feet in width), concrete curb, gutter and sidewalk, and appropriate railing and fencing on both sides of the roadway structure
  - Use a minimum design speed of 65 mph for vertical curve design
  - Install street lighting on bridge structure
  - Construct concrete curb, gutter and sidewalk
- Constructing grade separation embankment to a width adequate to accommodate a full width arterial street
- Constructing six 12-foot lanes from the bridge abutments to the touchdown points, with a 14-foot raised center median
- Providing bike lanes
- Planting xeriscape landscaping – slopes, parkways & medians
- Constructing an intersection with the Renfro Road/Santa Fe Way connector road and provide left- and right-turn channelization and install traffic signal system.

BO044-8

Renfro Road/Santa Fe Way connector road

The Authority shall construct a two-lane roadway within 60 feet of right of way to provide connectivity between Renfro Road and Santa Fe Way

- Use a design speed of 40 mph for horizontal curve design
- Provide left- and right-turn channelization at intersections

Approximate points of connection

- Renfro Road: 1,180 feet west of Santa Fe Way
- Santa Fe Way: 1,120 feet north of Renfro Road

Roadway length: 1,800 feet (approximate)
Roadway width: 40 feet

7 of 20

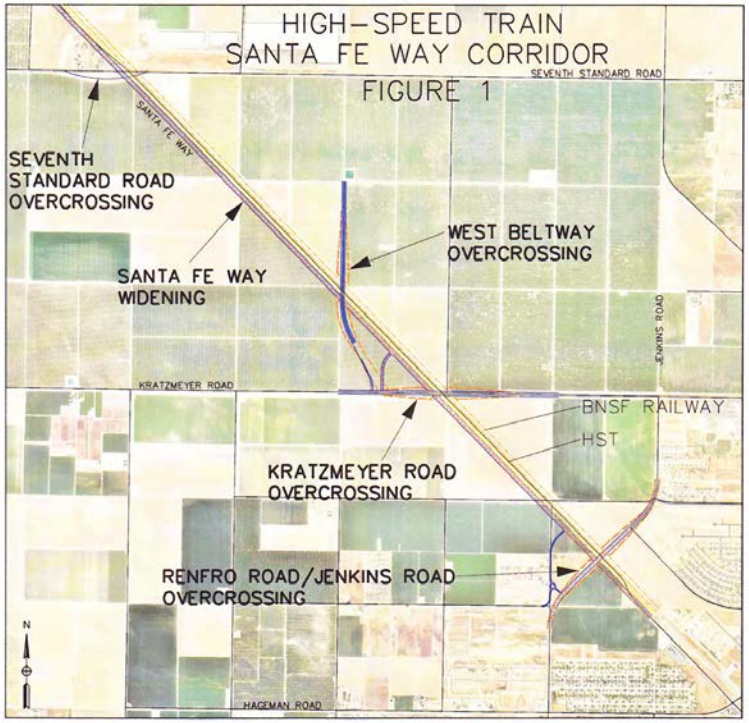
BO044-8

The Authority shall be responsible for all administrative costs incurred by the local agencies and property owners associated with adjustment in approved master plans, circulation elements, land use and zoning designations necessary to accommodate the HST. In addition, the Authority shall work in cooperation with both the local agencies and property owners to achieve the necessary adjustments.

The responsibility of the Authority to accomplish the roadway improvements above (see figure 1 below) is further substantiated in the following regional background information and comment on deficiencies contained in the DEIR.

8 of 20

Submission BO044 (Jeff Meger, Grimmway Farms, October 19, 2012) - Continued



9 of 20

Regional Background

Longstanding Impediments to Traffic Circulation

Physical barriers which disrupt the continuity of the arterial grid system are the single greatest impediment to traffic circulation in northwestern metropolitan Bakersfield. These barriers consist of the Kern River and various manmade impediments, including BNSF Railway and the Union Pacific Railroad, State Route 99 and numerous canals (see Figure 2 below). The railroads brought the first of the manmade barriers to the area more than 100 years ago when tracks were laid between the time Bakersfield was settled in 1858 and officially incorporated in 1898.

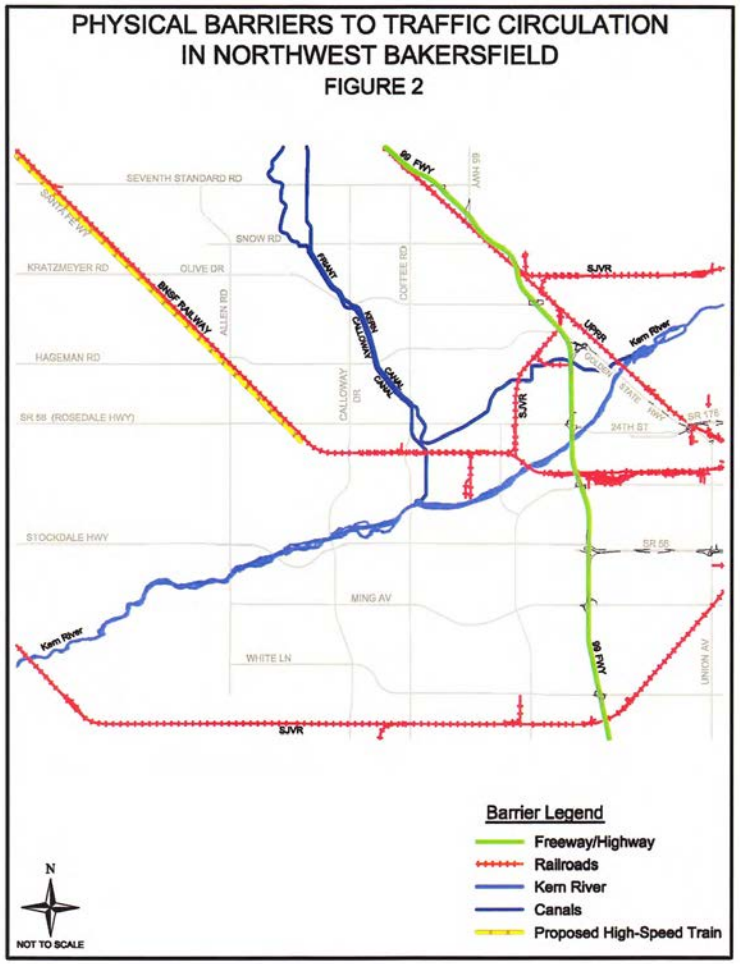
Over the past 30 years, the city and county have invested in a number of transportation improvement projects to mitigate the impacts of physical barriers on traffic circulation in northwestern metropolitan Bakersfield (see Figure 3 below). The total cost of these improvements amounts to more than $300 million (in today dollars) and includes railroad grade separations and river and canal crossings. These projects not only served to eliminate discontinuities in the existing arterial grid system, but were also built to full arterial standards in order to accommodate future travel demands.

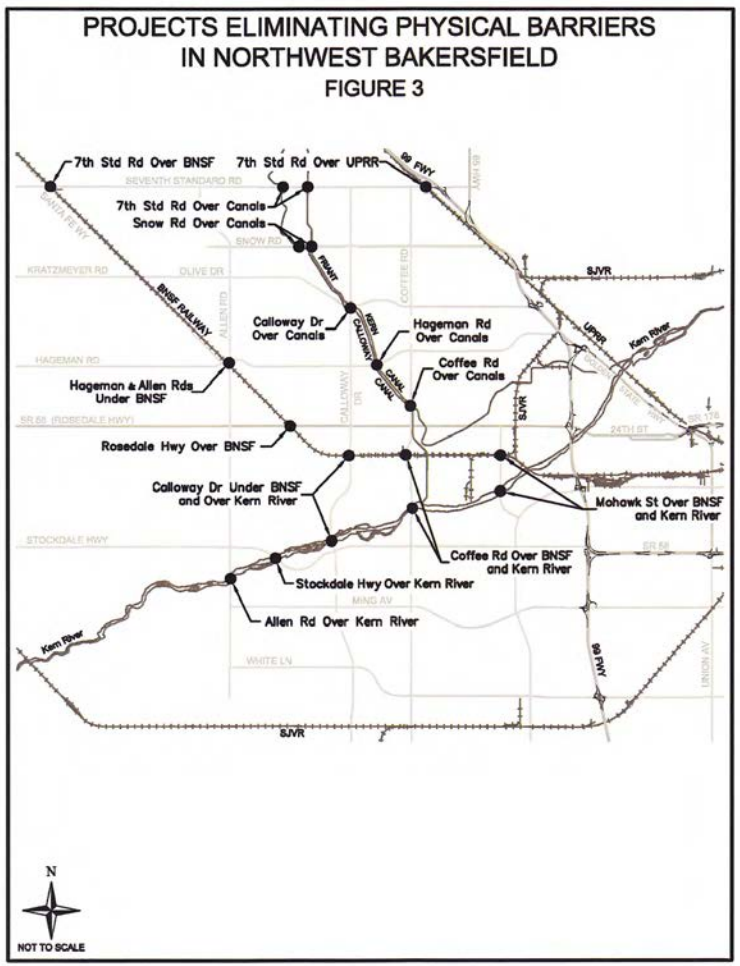
New Impediment Created by High-Speed Rail

As currently planned, the preferred BNSF alignment would be at-grade through northwestern metropolitan Bakersfield, thereby creating an additional manmade barrier which would disrupt the continuity of the existing arterial grid system and impede traffic circulation.

10 of 20

Submission BO044 (Jeff Meger, Grimmway Farms, October 19, 2012) - Continued





Submission BO044 (Jeff Meger, Grimmway Farms, October 19, 2012) - Continued

DEIR Deficiencies

SECTION 3.2 TRANSPORTATION

Section 3.2.2 Laws, Regulations, and Orders

Section 3.2.2.2 State; notes that Gov Code 65080 requires transportation planning agency to prepare and adopt a regional transportation plan (RTP); however, it fails to note the Gov Code 65300 requires, among other items, that the legislative body of each county and city shall adopt a comprehensive, long-term general plan (GP); and, that Section 65302 requires that the general plan shall include, among other items, a land use element [65302(a)], and a circulation element [65302(b)]. The circulation element shall include, among other items, existing and proposed major thoroughfares, transportation routes…and other public facilities…all correlated with the land use element of the plan.

BO044-9

Section 3.2.2.3 Regional and Local; includes acknowledgement of local plans and policies and notes the Kern County GP (2009) and the Metropolitan Bakersfield GP, but, the DEIR analysis and mitigation measures fail to address the impacts of the project on the Circulation Element of the GP and all the related impacts to other elements of the GP and future safety, capacity and air quality effects on the transportation system designated in the Circulation Element.

Section 3.2.3 Methods for Evaluating Impacts

Section 3.2.3.5 CEQA Significance Criteria; Operational Phase;

The DEIR indicates:

"The project would also have a significant effect on the environment if it would do any of the following:

- Conflict with adopted policies, plans or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.

- Result in inadequate emergency access.
- Substantially increase hazards due to a design feature (such as sharp curves or dangerous intersections) or from incompatible uses (such as farm equipment)."(sic)

BO044-10

The DEIR and project design does not adequately address the arterial corridors shown in the Circulation Element nor does it acknowledge that such corridors would likely be developed to ultimate multiple lane configurations with bicycle and pedestrian facilities and expanded intersections with turn lanes in the year 2035 when HST is operational. The lack of such ultimate arterial facilities and the proposed reduction of design speeds shown in the project design would not be consistent with adopted policies, plans and would substantially increase hazards.

Section 3.2.4 Affected Environment

BO044-11

The DEIR indicates: "This section describes the affected environment related to transportation." However, the DEIR basically limits analysis of impacts to the traffic around HST stations and essentially ignores the impacts on other portions of the Circulation Element. (Reference or insert specific notes with examples of insufficient widths of roadways design speeds, etc.)

Section 3.2.4.1 Regional Transportation System indicates in part: "The following subsections summarize the transportation network and facilities in the Fresno to Bakersfield Section."

Highways and Roadways

"The region contains several routes as well as other regionally significant roadways that serve as connections to population centers outside of the Fresno to Bakersfield Corridor. Figures 3.2-1 through 3.2-5 illustrate state routes and other regionally important roadways in this corridor."

BO044-12

The above is the quote of the entire subsection related to Highways and Roadways. Further, Figure 3.2-5, claims to represent regionally significant roads but essentially fails to show many of the arterials described in the Circulation Element. Additionally, for the

BO044-12

roadways that are shown (such as Santa Fe Way, Kratzmeyer Road, Seventh Standard Road) that project design fails to acknowledge or provide for the arterial corridor consistent with the adopted Circulation Element or what would be in place in the year 2035. Likewise, other roadways described in the Circulation Element, but not acknowledged as "regionally significant" by the DEIR, are not adequately addressed by the DEIR or the project design.

3.2.5.3 High-Speed Train Alternatives

BO044-13

Consistency with Regional Plans and Policies

The DEIR indicates in part that: The HST project is generally consistent with the plans and policies in Table 3.2-1. This table includes Kern County GP (2009) and the Metropolitan Bakersfield GP; however, the DEIR and the project design does not adequately acknowledge or provide for any of the highway facilities consistent with the GP Circulation Element.

Project Impacts

BO044-14

Impact TR # 10 – Impacts on Regional Transportation System

The DEIR indicates in part that: The HST alternates would provide benefits to the regional transportation system by reducing trips, etc. Again, the DEIR analysis and mitigation measures fails to address the impacts of the project on the Circulation Element of the GP and all the related impacts to other elements of the GP and the future safety, capacity and air quality effects on the transportation system designated by the Circulation Element.

3.2.7 Mitigation Measures

BO044-15

TR MM#6 Widen Approaches to Intersections

TR MM#7 Add Exclusive Turn Lanes to Intersections

TR MM#8 Add New Lanes to Roadway

BO044-15

The DEIR indicates the above mitigation measures basically to maintain or improve LOS and traffic operations; however, the DEIR analysis and project design are inconsistent with the GP Circulation Element adopted by the County of Kern and the City of Bakersfield as required by State law.

SECTION 3.11 SAFETY AND SECURITY

3.11.3.2 CEQA Significance Criteria

The DEIR indicates in part:

> "CEQA requires the analysis of impacts to determine whether significant impacts would occur as a result of the proposed alternatives and the identification of specific mitigation for significant impacts. A significant safety or security impact would occur if a project were to do one or more of the following:
>
> - Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the safety of such facilities.
> - Substantially increase hazards due to a design feature (e. g. sharp curves or dangerous intersections) or incompatible uses.
> - …Airport land use…
> - …Government facilities…service ratios…
> - Result in inadequate emergency access.
> - Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan."

BO044-16

The DEIR and project design fail to acknowledge and consider the Circulation Element of the GP and the other related elements of the GP which are based on all the arterial facilities designed in the Circulation Element. The lack or reduced capacity and serviceability of arterial corridors as proposed in the project design would directly impact safety and security, emergency access and adopted emergency response and/or emergency evacuation plans based on the currently adopted General Plan elements thereof.

Submission BO044 (Jeff Meger, Grimmway Farms, October 19, 2012) - Continued

3.11.3.3 Study Area

The third paragraph of this section indicates: "When the HST track is adjacent to a highway or roadway, a barrier is typically required where the roadway is less than 30 to 40 feet from the HST access control fence. Depending on the highway facility, the barrier can range from a standard concrete barrier to a taller barrier that protects against errant commercial trucks or trailers. Where the separation is greater than 30 to 40 feet, barriers may be considered, subject to a risk assessment."

BO044-17

The DEIR and project design does not provide adequate future roadway width consistent with the above provisions and Circulation Element. As proposed, some roadways (e.g. Santa Fe Way) would be extremely difficult to widen as designated by the Circulation Element and/or would have substantial additional costs added to the future road widening which is not being adequately address by the project. Additionally, future risk assessments may find that increased separation width might be required which may further encumber the parallel roadways (e.g. Santa Fe Way). The DEIR and project should acknowledge and provide for all potential risk assessment concerns and/or the HST system should assume any future obligations related to future modification needs or improvements.

3.11.8 NEPA Impacts Summary

The DEIR/DEIS indicates in part, under the HST alternatives, the effects are summarized; the third summarized effect states:

> "The HST alignment would have no effect on motor vehicle, pedestrian, and bicycle safety due to full grade separation and roadway improvements. Because the project involves replacement of at-grade crossings over existing railroad lines, the change of safety for the local communities would have a beneficial effect under NEPA."

BO044-18

Under the current project design and lack of acknowledgement of the Circulation Element of the GP, and all the related elements of the GP, this assertion is grossly in error. The HST system as currently designed will, in fact, encumber and restrict the roadways and transportation improvements designated by the Circulation Element; and,

BO044-18

not allow or substantially reduce the capacity, safety and air quality of the transportation facilities which are currently planned and which would otherwise likely be implemented in the 2035 year when the HST is operational.

3.11.9 CEQA Significance Conclusions

BO044-19

The DEIR/DEIS indicates only one impact and mitigation which relates to increased demand for fire, rescue, and emergency services at the stations and HMF (heavy equipment facilities), with a mitigation measure involving monitoring response of local fire and rescue and emergency services to the stations and HMF. The DEIR/DEIS states that "After mitigation, no impacts related to safety and security would be significant under CEQA."

Similar to the NEPA Impact Summary, Section 3.11.8, this assertion is grossly in error.

3.18 Regional Growth

3.18.2.3 Regional and Local

BO044-20

Kern Council of Governments Destination 2030 Regional Transportation Plan

The DEIR correctly acknowledges the following from the RTP:

> **"Goal:** Livability"
>
> **"Policy:** Support goals contained in city and county general plans that strive to enhance urban and community centers, promote the environmental sensitive use of land in Kern County, revitalize distressed areas, and ensure that new growth areas are planned in a well-balanced manner."

However, the DEIR analysis and project design are inconsistent with the GP Circulation Element adopted by the County of Kern and the City of Bakersfield as required by State law; and, fails properly acknowledge the stated provisions and policy of the RTP.

Submission BO044 (Jeff Meger, Grimmway Farms, October 19, 2012) - Continued

3.18.2.4 Local

The DEIR correctly acknowledges, among other items, that: Kern County and cities of Shafter and Bakersfield all have adopted general plans. The DEIR states:

> "General plans are required by California state law, and each includes seven mandatory elements (Circulation, Conservation, Housing, Land Use, Noise, Open Space, and Safety and Seismic Safety) and must contain text that describes the goals, objectives, and policies for development. The general plans and their goals, objectives, and policies are guiding documents for the long-range growth, development, and redevelopment. These local plans and policies were considered in the preparation of this analysis."

BO044-21

However, the DEIR analysis and project design are inconsistent with the GP Circulation Element adopted by the County of Kern and the City of Bakersfield as required by State law; and, fails to properly acknowledge the stated provisions and policy which the DEIR purports were considered. At a minimum, if these local plans and policies were considered but not provided for (such as reduced roadway widths, reduce design speeds and decreased capacity, safety and air quality) then extensive analysis, mitigation and/or overriding considerations would be required for any non-compliance with the adopted general plans and all elements thereof.

3.18.4 Affected Environment

The second paragraph under this section acknowledges that Bakersfield is the next largest city in the study area (after Fresno) and that is growing at a faster rate than Fresno (See Table 3.18.1).

3.18.4.1 Population

BO044-22

The DEIR notes that over the next 25 years (2010 to 2035) the population of Kern County is projected to grow 81%, the fastest within the study area.

Accommodation of this stated growth, which is anticipated to be in place by the time the HST is operational, should be reflected in the project design by acknowledging and

BO044-22

providing for all transportation facilities shown in the Circulation Element. The project design should not propose any reductions in design features (width, speed, sight distance, traffic channelization, bicycle and pedestrian uses, or others) which would restrict the full anticipated implementation of the general plans and should not result in any reduction of transportation capacity, safety or air quality.

Summary

In summary, the currently proposed alignment of the HST along the Santa Fe Way corridor, between Hageman Road and Seventh Standard Road, has a significant impact on the current and future street and circulation system as well as the surrounding entitled land. The roadway improvements shown in the DEIR do not mitigate the impacts created by the HST. A detailed list of roadway improvements, along with supporting justification, has been provided in this letter as minimum roadway mitigation required to overcome the impacts created by the HST. Grimmway Farms looks forward to your positive response to these comments and to working with the Authority on their implementation as the HST project proceeds.

Respectfully,

Mr. Jeff Meger
President

Representing the following land parcels:

463-020-22	529-010-24
463-010-05	529-010-25
463-040-05	529-010-10
463-040-06	529-010-12
463-040-16	529-010-19
463-040-17	529-010-24
463-040-13	529-010-25

Submission BO044 (Jeff Meger, Grimmway Farms, October 19, 2012) - Continued

Response to Submission BO044 (Jeff Meger, Grimmway Farms, October 19, 2012)

BO044-1

Refer to Standard Response FB-Response-GENERAL-08.

Additional coordination is ongoing with the Greater Bakersfield Separation of Grade District and other local agencies to agree on the required level of roadway improvements associated with the HST project.

BO044-2

Refer to Standard Response FB-Response-GENERAL-08.

Additional coordination is ongoing with the Greater Bakersfield Separation of Grade District and other local agencies to agree on the required level of roadway improvements associated with the HST project.

BO044-3

Refer to Standard Response FB-Response-GENERAL-08.

Additional coordination is ongoing with the Greater Bakersfield Separation of Grade District and other local agencies to agree on the required level of roadway improvements associated with the HST project.

BO044-4

Refer to Standard Response FB-Response-GENERAL-08.

Additional coordination is ongoing with the Greater Bakersfield Separation of Grade District and other local agencies to agree on the required level of roadway improvements associated with the HST project.

BO044-5

Refer to Standard Response FB-Response-GENERAL-08.

Additional coordination is ongoing with the Greater Bakersfield Separation of Grade District and other local agencies to agree on the required level of roadway improvements associated with the HST project.

BO044-6

Refer to Standard Response FB-Response-GENERAL-08.

Additional coordination is ongoing with the Greater Bakersfield Separation of Grade District and other local agencies to agree on the required level of roadway improvements associated with the HST project.

BO044-7

Refer to Standard Response FB-Response-GENERAL-08.

Additional coordination is ongoing with the Greater Bakersfield Separation of Grade District and other local agencies to agree on the required level of roadway improvements associated with the HST project.

BO044-8

Refer to Standard Response FB-Response-GENERAL-08.

Additional coordination is ongoing with the Greater Bakersfield Separation of Grade District and other local agencies to agree on the required level of roadway improvements associated with the HST project.

BO044-9

The Kern County and Metropolitan Bakersfield General Plans (Kern County Planning Department 2007;
City of Bakersfield 2007) are discussed in greater detail in Section 3.13, Appendix A, Land Use Plans, Goals, and Policies. Refer to Impact TR #13 – Impacts on the Local Roadway Network due to Station Activity in Section 3.2 of the Final EIR/EIS.

BO044-10

The HST project will not preclude the City of Bakersfield or any other entity from constructing future roadway improvements. Major existing arterials and highways will have overcrossings allowing through traffic to cross the HST corridor.

Response to Submission BO044 (Jeff Meger, Grimmway Farms, October 19, 2012) - Continued

BO044-11

The local General Plan policies and goals establish the framework for the development of the transportation network with a wide range of policies affecting transportation. The citywide circulation network is not part of the HST's scope of analysis; rather the EIR/EIS considered the impacts of the project on the existing and planned transportation network, including the impact of traffic at stations on local intersections, and crossings of existing roadways and necessary roadway closures. Levels of service and intersection delay were considered with regard to any impacts. The mitigation measures identified are consistent with General Plan goals, such as the addition of turn lanes and signal improvements at intersections that function poorly. Where improvements are made, they will meet local design requirements to the extent feasible (e.g., allowance for shoulders on new overcrossings, lanes widths that meet local standards, etc.). The project will not reduce roadway widths or design speeds, with the exception of where roadway closures are planned, as identified in the EIR/EIS.

BO044-12

Figure 3.2-5 does not intend or claim to depict all arterial roadways. The figure exhibits interstate, state routes, and local roads pertinent to the HST project.

BO044-13

The HST project will not close or affect any existing freeways or the seven planned freeways described in the Metropolitan Bakersfield General Plan Circulation Element (City of Bakersfield and County of Kern 2007b). The HST project will not preclude or restrict any planned freeways from being constructed similar to their description in the Circulation Plan Map. Affects to freeways in the Bakersfield area are further discussed in Impact TR #10 - Impacts on Regional Transportation System of the Final EIR/EIS.

BO044-14

The HST project is consistent with the Metropolitan Bakersfield General Plan Circulation Element's (City of Bakersfield and County of Kern 2007b) Transit Policy #12: "Support efforts to develop high-speed rail facilities to service the plan area (I-11)." The Final EIR/EIS addresses all identified circulation and traffic issues and impacts raised during the course of review.

BO044-15

Mitigation Measures #6 Widen Approaches to Intersections, #7 Add Exclusive Turn Lanes to Intersections, and #8 Add New Lanes to Roadway are consistent with the Metropolitan Bakersfield General Plan Circulation Element's (City of Bakersfield and County of Kern 2007b) General Policy #37: "Require new development and expansion of existing development in incorporated areas to fully provide for on-site transportation facilities including streets, curbs, traffic control devices, etc. Within unincorporated areas street improvements will be determined by County Ordinance (I-27, I-29)." The HST project includes these improvements for identified adverse traffic impacts.

BO044-16

Refer to Standard Response FB-Response-S&S-01.

The project would not reduce roadway capacity. It would impact connectivity at some locations that would result in up to about 1 mile of out-of-direction travel, as described in the EIR/EIS.

BO044-17

Refer to Standard Response FB-Response-GENERAL-08.

Additional coordination is ongoing with the Greater Bakersfield Separation of Grade District and other local agencies to agree on the required level of roadway improvements associated with the HST project.

BO044-18

The project design and EIR/EIS took into account all roadway improvements planned to 2035 contained in the constrained Regional Transportation Plans for the counties crossed by the project. These roadway improvements have a reasonable degree of certainty of being implemented by 2035 and are the improvements each county uses to assess future environmental conditions associated with transportation. The HST project does not encumber or restrict the roadway system in any county crossed by the project. In many cases, by providing grade separations at existing roadway crossings of the BNSF Railway, the project will improve safety and security and traffic circulation in the counties.

Response to Submission BO044 (Jeff Meger, Grimmway Farms, October 19, 2012) - Continued

BO044-19

As indicated in the responses to the comments in this letter, the statement that after mitigation no impacts related to safety and security would be significant under CEQA is correct.

BO044-20

Refer to Standard Response FB-Response-GENERAL-03, FB-Response-GENERAL-08.

BO044-21

Refer to Standard Response FB-Response-GENERAL-03, FB-Response-GENERAL-09.

As indicated in Section 3.13 of the EIR/EIS, the HST project is an undertaking of the Authority and FRA, in their capacities as state and federal agencies. As such, it is not required to be consistent with local plans in the same manner as a private development project. Nevertheless, the Authority and FRA have made an effort to make the project as consistent as possible with local plans considering the project's engineering constraints.

The local General Plan policies and goals establish the framework for the development of the transportation network with a wide range of policies affecting transportation. The EIR/EIS considered the impacts of the project on the existing and planned transportation network, including the impact of traffic at stations on local intersections, and crossing of existing roadways and necessary roadway closures. Levels of service and intersection delay were considered with regard to any impacts. The mitigation measures identified are consistent with General Plan goals, such as the addition of turn lanes and signal improvements at intersections that function poorly. Where improvements are made, they will meet local design requirements to the extent feasible (e.g., allowance for shoulders on new overcrossings, lane widths that meet local standards, etc.). The project will not reduce roadway widths or design speeds, with the exception of where roadway closures are planned, as identified in the EIR/EIS.

BO044-22

The HST project will not preclude any jurisdiction or entity from implementing future transportation projects.

Submission BO045 (Jason Blankenship, Harvest Community Baptist Church, August 16, 2012)

Fresno - Bakersfield (July 2012+) - RECORD #931 DETAIL

Status :	Completed
Record Date :	8/16/2012
Response Requested :	No
Affiliation Type :	Businesses and Organizations
Interest As :	Individual
Submission Date :	8/16/2012
Submission Method :	Website
First Name :	Jason
Last Name :	Blankenship
Professional Title :	Pastor
Business/Organization :	Harvest Community Baptist Church
Address :	
Apt./Suite No. :	
City :	Corcoran
State :	CA
Zip Code :	93212
Telephone :	559-269-6204
Email :	pastorblankenship@yahoo.com
Email Subscription :	
Cell Phone :	
Add to Mailing List :	No
BO045-1 **Stakeholder Comments/Issues :**	Please make a stop in the Hanford/Visalia/Tulare area! This is one of the highest unemployment areas in the nation. Jobs needed, and the connectedness is greatly needed as well. You would find much more support from the central valley if you did this.
EIR/EIS Comment :	
Official Comment Period :	No

Response to Submission BO045 (Jason Blankenship, Harvest Community Baptist Church, August 16, 2012)

BO045-1

Since circulation of the Revised DEIR/Supplemental DEIS, the Authority has committed to the construction of a Kings/Tulare Regional Station in the vicinity of the city of Hanford. Construction timing will be based on ridership demand in the region during Phase 2 of the statewide project and would occur sometime after 2020.

Submission BO046 (Steven Weil, Horizon Enterprises, August 2, 2012)

BO046-1

Fresno - Bakersfield (July 2012+) - RECORD #69 DETAIL

Status :	Action Pending
Record Date :	8/2/2012
Response Requested :	No
Affiliation Type :	Businesses and Organizations
Interest As :	Businesses And Organizations
Submission Date :	8/2/2012
Submission Method :	Website
First Name :	Steven
Last Name :	Weil
Professional Title :	
Business/Organization :	Horizon Enterprises
Address :	
Apt./Suite No. :	
City :	Fresno
State :	CA
Zip Code :	93710
Telephone :	559-449-1775
Email :	mweil0777@aol.com
Email Subscription :	
Cell Phone :	
Add to Mailing List :	

Stakeholder Comments/Issues :

The comments below are submitted on behalf of myself as a resident of Fresno County and on behalf of Horizon Enterprises as a property owner in the South Van Ness industrial district in the City of Fresno.

The subject project will close existing at-grade crossings of the UPRR at Van Ness and Florence Avenues. No replacement crossings for those are proposed. In addition, the subject project will further impair an already dysfunctional intersection at East and Church Avenues.

Southbound traffic on East Avenue, which includes a high proportion of trucks, will be forced, at the Church Avenue intersection, to make an abrupt left turn and cross, at grade, the BNSF tracks along a frontage-type roadway before re-entering Church Avenue to travel either east or west.

This convoluted and dangerous intersection pattern can be avoided entirely if East Avenue were to ramp up to the grade separation structure planned for Church Avenue, thereby completely eliminating any need for traffic at the intersection to cross any railroad at grade.

In any event, closure of the Van Ness and Florence Avenue UP rail crossings combined with the marginalization of East Avenue as a functional point of access, as referenced above, will, cumulatively, have severe negative impacts on access to and from the entire historic industrial district centered on South Van Ness Avenue south of Freeway 41. This impairment of the circulation system will have negative impacts on property values, business operations and building vacancies, resulting in blight. Impaired vehicular circulation in this district will result in negative air quality and safety impacts. These should all be thoroughly analyzed and mitigated in a supplement to the EIR/EIS.

The EIR/EIS should be augmented and supplemented with a detailed traffic analysis of the impacts of the subject project on traffic circulation, safety and air quality in the area generally bounded by Ventura Avenue on the north, Church Avenue on the south, East Avenue on the east and Golden State Boulevard on the west.

In addition, a mitigation measure of including a ramp structure to directly connect East Avenue to the Church Avenue grade separation structure should be described and thoroughly evaluated in a supplement to the EIR/EIS to mitigate the traffic impacts and associated air quality and safety impacts resulting from the impairment of the East Avenue intersection with Church Avenue by the subject project.

The augmented and supplemented EIR/EIS referenced above should be recirculated for comments.

EIR/EIS Comment : Yes
Official Comment Period : Yes

Response to Submission BO046 (Steven Weil, Horizon Enterprises, August 2, 2012)

BO046-1

Refer to Standard Response FB-Response-TR-02, FB-Response-AQ-04.

As the comment states, Van Ness and Florence Avenues are proposed to be closed by the HST project, and southbound traffic on Van Ness would access the Westside of the UPRR along Church Avenue. Church Avenue would be accessed via southbound East Avenue.

Impact TR #11 - Changes in Vehicle Movements and Flow on Highways and Roadways determined that road closures would would have a less than significant impact on circulation patterns, and therefore secondary impacts related to vacancies, property values and blight would be less than significant.

Impact S&S #8 – Increased Response Times for Fire, Rescue, and Emergency Services from Permanent Road Closures of CH 3.13, Safety and Security, of the Final EIR/EIS explains that the project design would include coordination with emergency responders to incorporate roadway modifications that maintain existing traffic patterns and fulfill response route needs, resulting in negligible effects on response times by service providers. Therefore, homeowner insurance rates will not increase as a result of the project.

Submission BO047 (Robert (1) & Rose Ann (2) Garcia III (1) & Martinez (2), International Immigration Service, October 19, 2012)

Fresno - Bakersfield (July 2012+) - RECORD #408 DETAIL

Status :	Action Pending
Record Date :	10/20/2012
Response Requested :	No
Affiliation Type :	Businesses and Organizations
Interest As :	Businesses And Organizations
Submission Date :	10/19/2012
Submission Method :	Project Email
First Name :	Robert (1) & Rose Ann (2)
Last Name :	Garcia III (1) & Martinez (2)
Professional Title :	
Business/Organization :	International Immigration Service
Address :	1206 G STREET #101
Apt./Suite No. :	
City :	Fresno
State :	CA
Zip Code :	93706
Telephone :	559-237-8383
Email :	fresnoroseann@aol.com
Email Subscription :	
Cell Phone :	
Add to Mailing List :	
Stakeholder Comments/Issues :	
EIR/EIS Comment :	Yes
Official Comment Period :	Yes

INTERNATIONAL IMMIGRATION SERVICE
ROBERT GARCIA III & ROSE ANN MARTINEZ
1206 G STREET #101
FRESNO, CA 93706
(559)237-8383

OCTOBER 19, 2012

RE: SUBJECT REQUEST BEING SUBMITTED BY FAX AS OF TODAY'S DATE 10/19/12. WRITTEN DECLARATION OF THE TRUE AND CORRECT FACTS OF RECORD.

ATTENTION!!!!!:

BO047-1 We were never informed of this project at all. We never received any type of notices ever. We were taken advantage of due to not being informed ever. I believe this is called stealing! We have been operating on a daily basis at this location for over 15 years and we have been firmly established. We have built our reputation here and are well known to the public where we are sought out more often then not by location and word of mouth directions. We have triple A+ rating with the BBB and our Community. I, Rose Ann have served the community in Immigration for over 32 years. I have credentials from George Washington University of Nantucket New York. I paid for my education. It was not funded or any type of special consideration on this.

I, Robert also have been in this office. I have my income tax clients, my businesses in the community and my immigration clients. We purchased this property through years and years of hard work often working 7 days a week. We have kept this building in excellent condition and have substantially added to the area. We take pride and honor for good moral character and hard earned reputation for serving our clientele as well as all public passerby's we accommodate regularly. Furthermore our ownership of business is our Lifeblood and our identity which took several decades to come to fruition. Not to mention the Employees that are employed by us and already have a permanent work opportunity that is valued by their Families very much as well as it is the primary source of income for their livelihood. This action is truly causing great hardship and will hav e a long lasting effect

BO047-2 which will adversely persecute the masses for the hopes of a few. The year is now 2012 and this is a different time as to when the spending was approved in 2007 along with so many of the real estate funding projects that are to date still having adverse effects. Now these funds are desperately required for our basics necessities that we are cutting and slashing a reckless rate.

BO047-3 This was traumatic to have been informed with people in yellow hats and jackets doing surveying in our property. They entered without our permission. They trespassed our office without telling us. They came into the office and said we were going to leave. No one issued us any paper work to explain. It felt like we were raped! This was the grade of this disrespect to us. Yes, we count. Why you violated us in this unethical way we will never understand. Why you could just come here and take what is not yours. And make Americans feel violated and there is no one or nothing that can do anything about it or any organization that even cares about this injustice.

BO047-4 Last time I check This is still America! We should have been respected. Instead, we were left in the dark without notice. I found out that my neighbor the Cosmopolitan were informed. The OK fruit were informed. I, Rose Ann Martinez spoke at the city hall meeting and told your HSR Representative that we were never informed. And we were told that they are special people that had special needs and in a sense this means to me they meant we are not all considered equal, does this seem correct? It was recorded at the town meeting and It was mentioned in the Fresno Bee. That I informed you that I was never told about this invasion and certainly un-welcomed invitation. Your representative said he went to OK produce and the Cosmopolitan and lied and said he told every one in the area because he did not. I registered to speak and I said on record t hat you (HSR) were just a few feet from my office and you (HSP) never knocked on my door to inform me you plan to take my

BO047-5 property. Why did you think I don't matter. I felt like you discriminated me due to being a woman. An Hispanic business woman. You (HSR) informed the two (2) males that own the cosmopolitan and OK produce. This was wrong!!!! Listen to the original recordings our office made against the HSR. These were public hearing registration, that were recorded live. See the recordings of the events held in the Fresno Conventions Center and the Fresno City Counsel chambers.

BO047-6 Second point, the environment. If a train travels 200+ miles per hour in the downtown heart of Fresno, CA. This is a BIG bomb ready to get set off. The environment will be polluted. The dust particles will be ingested by the human body, due to the fact that it is in downtown. No where the wind can pick up the dust and move it away. We will suffer the pollution that will now be present. Cancers will be spread to the community. The train should be built in Hell. It's a making Death by poisoning the environment and our food supply. Poisoning the human

Submission BO047 (Robert (1) & Rose Ann (2) Garcia III (1) & Martinez (2), International Immigration Service, October 19, 2012) - Continued

BO047-7 race in more ways than just one. Depleting our economy for a ridiculous train. We do not need another train. Build colleges, Hospitals, repair our roads. Feed our seniors not just our politicians showcase piece. Create projects that start in grade sc hool to learn effective legislation for the good of Humanity not selfish career endeavors. They should also make it mandatory to test politicians for ethics and morals as well as their mental competency to make good laws for the people and by the people.

BO047-8 Our location is in the heart of downtown Fresno. It is just past the archway to the Fulton mall and I believe it has historic value and considered by many to be the jewel of this area. Our office is in a prime area with access to the freeway and all the prestigious Court buildings are within in walking distance that we utilize on a regular basis.

BO047-9 The Facility houses not only our business but three others as well with equal if not more to lose if we are strong armed to leave. The Facility is state of the art with numerous upgrades and extras that we have added inside and outside to the already more than adequate building. We have plentiful secured parking and impressive curb appeal. Our Facility has 100 million dollar value to us! You tried to sucker us with just pennies. You should be

BO047-10 put in jail! You brought us to meetings where you fool ed us and not even paid attention to us all. We thought that we were going to be given the respect you gave OK produce and Cosmopolitan. You did not. You brought in a strong angry man who looked like the death angel of the town. Who told us cold hearted were had a property that was not worth very much! This was an shameful insult! We suffered post traumatic stress syndrome at this meeting.

Respectfully submitted,

_____
Rose Ann Martinez

_____
Robert Garcia III

Response to Submission BO047 (Robert (1) & Rose Ann (2) Garcia III (1) & Martinez (2), International Immigration Service, October 19, 2012)

BO047-1

Refer to Standard Response FB-Response-GENERAL-16.

BO047-2

Refer to Standard Response FB-Response-GENERAL-17.

BO047-3

The FRA and Authority followed all federal and state guidelines pertaining to property appraisals and working with this and all impacted property owners. To that end, a Notice of Determination to Appraise (NODA) was sent to this property owner on April 17, 2012. The appraiser left seven (7) messages with the property owner to seek permission for the appraiser to conduct an inspection. Those calls were never responded to. As state and federal protocol dictates, the appraisal team conducted a visual inspection from the road on June 26, 2012. The Authority continues to proactively communicate with stakeholders on anticipated impacts and the subsequent right-of-way acquisition process as this project progresses.

BO047-4

The preferred alternative and subsequent alignment for the Fresno to Bakersfield Section has not been determined; thus the analysis of what property will required for the project footprint has yet to be determined. The public outreach process for the Fresno to Bakersfield Section of the HST has been extensive and includes hundreds of public meetings and briefings where public comments have been received, participation in community events where feedback has been solicited, and public educational materials have been developed and distributed to encourage feedback. These efforts are cited in Chapter 7 of the Revised Draft EIR/Supplemental Draft EIS. Public notification regarding the draft environmental documents took place in the following ways: A notification letter, informational brochure, and NOA were prepared in English and Spanish and sent to landowners and tenants within 300 feet of all proposed alignment alternatives. The letters notified landowners and tenants that their property may be become necessary for construction (within the project construction footprint) of one or more of the proposed alignment alternatives or project components being evaluated. Anyone who has requested to be notified or is in our stakeholder database was sent notification materials in English and Spanish. An e-mail communication of the notification materials was distributed to the entire stakeholder database. Public notices were placed in English and Spanish newspapers. Posters in English and Spanish were posted along the project right-of-way.

BO047-4

distributed to the entire stakeholder database. Public notices were placed in English and Spanish newspapers. Posters in English and Spanish were posted along the project right-of-way.

BO047-5

The preferred alternative and subsequent alignment for the Fresno to Bakersfield Section has not been determined; thus the analysis of what property will required for the project footprint has yet to be determined. The public outreach process for the Fresno to Bakersfield Section of the HST has been extensive and includes hundreds of public meetings and briefings where public comments have been received, participation in community events where feedback has been solicited, and public educational materials have been developed and distributed to encourage feedback. These efforts are cited in Chapter 7 of the Revised DEIR/Supplemental DEIS. Public notification regarding the draft environmental documents took place in the following ways: a notification letter, informational brochure, and NOA were prepared in English and Spanish and sent to landowners and tenants within 300 feet of all proposed alignment alternatives. The letters notified landowners and tenants that their property may be become necessary for construction (within the project construction footprint) of one or more of the proposed alignment alternatives or project components being evaluated. Anyone who has requested to be notified or is in our stakeholder database was sent notification materials in English and Spanish. An e-mail communication of the notification materials was distributed to the entire stakeholder database. Public notices were placed in English and Spanish newspapers. Posters in English and Spanish were posted along the project right-of-way.

BO047-6

Refer to Standard Response FB-Response-AQ-01.

Refer to Standard Response FB-Response 27 for information on dust from operation of the HST. Section 3.3.6.3 in the Final EIR/EIS describes several analyses of the health impacts and cancer risks associated with construction and operation of the stations and HMF/maintenance-of-way facility. With mitigation, the cancer risks will be less than significant.

Response to Submission BO047 (Robert (1) & Rose Ann (2) Garcia III (1) & Martinez (2), International Immigration Service, October 19, 2012) - Continued

BO047-7

Please see Section 3.12 of the Revised DEIR/Supplemental DEIS for a discussion of the economic impacts of the HST project on Fresno.

While public funds for colleges, hospitals, and road maintenance are important issues, they do not relate to the purpose and need for the proposed project and are not addressed in this EIR/EIS.

BO047-8

This property, 1206 G Street in Fresno, was considered in the Area of Potential Effects (APE) for the project; however, it was determined to be less than 50 years old and therefore did not require further evaluation as per the Section 106 Programmatic Agreement in place between the State Historic Preservation Officer (SHPO), FRA, and the Authority (Authority and FRA 2011f). Consequently, the property was found to lack historical significance under California Environmental Quality Act (CEQA) Guidelines Section 15064.5, as discussed in Section 3.17, Cultural and Paleontological Resources, of the EIR/EIS. The SHPO concurred with this conclusion on review of the Historic Architectural Survey Report (HASR) in October 2011 (Authority and FRA 2011b).

BO047-9

Refer to Standard Response FB-Response-SO-01.

BO047-10

Refer to Standard Response FB-Response-GENERAL-07.

The public outreach process for the Fresno to Bakersfield Section of the HST has been extensive and includes hundreds of public meetings and briefings where public comments have been received, participation in community events where feedback has been solicited, and public educational materials have been developed and distributed to encourage feedback.

Submission BO048 (Phil Ivans, Ivans Insurance Agency, October 18, 2012)

CALIFORNIA High-Speed Rail Authority

RECEIVED 10/18/2012

Comment Card
Tarjeta de Comentarios

Fresno to Bakersfield High-Speed Train Section
Revised Draft Environmental Impact Report/ Supplemental Draft Environmental Impact Statement (Revised Draft EIR/Supplemental Draft EIS)

La Sección de Fresno a Bakersfield del Tren de Alta Velocidad
Proyecto Revisado de Informe de Impacto Ambiental/ Declaración de Impacto Ambiental Proyecto Suplementario (Proyecto Revisado EIR/Proyecto Suplementario EIS)

Please submit your completed comment card at the end of the meeting, or mail to:
Por favor entregue su tarjeta completada al final de la reunión, o enviela por correo a la siguiente dirección:
Fresno to Bakersfield Revised Draft EIR/Supplemental Draft EIS Comment, 770 L Street, Suite 800, Sacramento, CA 95814

The comment period is from July 20 to September 20, 2012. Comments must be received electronically, or postmarked, on or before September 20, 2012.

El periodo de comentario es del 20 de Julio al 20 de Septiembre del 2012. Los comentarios tienen que ser recibidos electrónicamente, o matasellados, el o antes del 20 de Septiembre del 2012.

Name/Nombre: PHIL IVANS
Organization/Organización: IVANS INSURANCE AGENCY
Address/Domicilio: 804 N. IRWIN ST., SUITE E HANFORD CA 93230
Phone Number/Número de Teléfono: 559 - 816 - 1537
City, State, Zip Code/Ciudad, Estado, Código Postal: HANFORD CA 93230
E-mail Address/Correo Electrónico: philivans@yahoo.com
(Use additional pages if needed/Usar paginas adicionales si es necesario)

BO048-1 HOW WILL THE HSRA ADDRESS THE ADVERSE EFFECTS TO MY BUSINESS?
AS A CROP INSURANCE ONLY AGENCY, MY INCOME IS BASED ON THE PLANTED ACRES OF CROP BY A FARMER. LOSS OF ACRES TO THE FARMER WILL MEAN A LOSS OF INCOME TO MY AGENCY. WITH LOSS OF INCOME TO MY AGENCY, I WILL BE FORCED TO LAY OFF EMPLOYEES AND NOT CONSIDER THE HIRE OF NEW EMPLOYEES.

Response to Submission BO048 (Phil Ivans, Ivans Insurance Agency, October 18, 2012)

BO048-1

Refer to Standard Response FB-Response-SO-01, FB-Response-SO-03.

Submission BO049 (Raymond Carlson, J.G. Boswell Company (Atty. For) Griswold, LaSalle, Cobb, Dowd & Gin, LLP., October 19, 2012)

Griswold LaSalle
Cobb Dowd & Gin L.L.P.

G·L·C·D·G

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Mario U. Zamora
Laura A. Wolfe

*a Professional Corporation

Lyman D. Griswold (1914-2000)
Michael E. LaSalle (Retired)
Steven W. Cobb (1947-1993)

October 18, 2012

VIA UPS NEXT DAY AIR TRACKING NOS. 1 Z F 74 78R 01 9319 9037 (HSRA) and 1 Z F 74 78R 01 9383 6240 (FRA)
Board of Directors
CALIFORNIA HIGH SPEED
RAIL AUTHORITY
770 L Street, Suite 800
Sacramento, CA 95814-3359

Re: The California High Speed Train Project Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement for the Fresno to Bakersfield Section of the High-Speed Train Project
Comments of J.G. Boswell Company

Dear Chairman and Members of the Board:

The J.G. Boswell Company appreciates the release of the aforementioned documents. This letter contains the comments of J.G. Boswell Company regarding the revised Draft EIR/EIS ("DEIR/DEIS") for the Fresno to Bakersfield Section of the California High Speed Train ("HST") Project ("Project").[1] The sponsoring agency for the Project is the California High Speed Rail Authority ("Authority"), created by the Legislature in 1996. See Cal. Public Resources Code §§18500 et seq., § 185020(a). Many of the comments reflected herein are redirected from the Company's previous comment submittal of October 12, 2011, which is enclosed and resubmitted for inclusion into the record.

BO049-1

[1] There continues to be ambiguity and uncertainty in the Project description. The Authority initially released the DEIR/DEIS for the Merced to Fresno section simultaneous with the Fresno to Bakersfield DEIR/DEIS. Each of these sections in itself constitutes a project for CEQA and NEPA purposes, but both are components of the larger state-wide high-speed train project. Proposition 1A, approved by voters at the November 2008 general election, enacted Chapter 20 of Division 3 of the Streets and Highways Code, commencing with § 2704. Section 2704.04(a)(3)(A)-(G) authorized seven "high-speed train corridors" which do not include a separate Merced to Bakersfield "corridor" or a Merced to Fresno "corridor" or a Fresno to Bakersfield "corridor." Stand alone Merced-Fresno or Fresno-Bakersfield sections at most might be considered "useable segment[s]" under § 2704.01(g), but are not authorized for separate funding under § 2704.04(a)(3). Moreover, a useable segment must be a portion of a corridor which in turn is a portion of the high-speed train system. If the Authority is proposing separate Merced-Fresno or Fresno-Bakersfield as (potentially) stand alone "sections," these projects are not legally fundable with bonds sold under the authority of Proposition 1A. There is no authority under Proposition 1A to build stand alone segments or sections of "high speed train corridors" without building the entire California High Speed Train Project of which the recognized corridors are a part. Therefore, the ambiguity for purposes of the project description exists with respect to whether the "Project" is the full HSR state wide project (as suggested by the title of the DEIR/DEIS) or as a standalone project or segment or section which cannot be funded as such with Proposition 1A bond funds. This ambiguity in the project description results in the revised DEIS/DEIR failing to adequately and consistently describe the project from which flows the deficient disclosure of impacts and ultimately the legal insufficiency of the revised DEIR/DEIS.

BO049-2

As with the previous draft DEIR/DEIS, the revised DEIR/DEIS, Volume 1, Report comprising 13 sections; Volume II, comprising 28 Technical Appendices; Volume III comprising 5 extensive alignment plans; and 27 separate technical reports comprising tens of thousands of pages. The Authority previously extended the comment period to 90 days for review and comment on these environmental documents. This is a legally inadequate time period for review and comment on these environmental documents. J.G. Boswell Company supports the County of Kings request for an extension until January 13, 2013.

BO049-3

I. INTRODUCTION.

In previous comments, attached hereto, it was described that J.G. Boswell Company farms land in the vicinity of Corcoran, CA, and owns and operates agricultural processing facilities in Corcoran along both sides of the existing Burlington Northern Santa Fe ("BNSF") tracks. The revised DEIR/DEIS addressed approximately 40% of the concerns initial identified by J.G. Boswell from the previous comments. It remains, however, that these facilities continue to be severely adversely impacted, if not rendered unusable if the Corcoran Elevated Alignment or the BNSF Alignment is selected by the Authority as the preferred alternative.

Again, this lack of specificity hampers the revised DEIR/DEIS throughout and renders it an inadequate disclosure document. The impacts pointed out in this letter are those remaining from the previous comments, plus additional issues that have been identified in the interim. The methodology employed in these comments is similar to the previous in that by taking the 15% level detail presented on the appropriate map sheets and drawings in Volume III of the revised DEIR/DEIS, then using other tools (GIS, AutoCad, etc.) and data sets (legal descriptions, surveys, etc.) to attain a better understanding of the relationship between the actual footprint of the project works relative to the location of existing facilities and infrastructure and the impacts and encroachments of the former on the latter. The revised DEIR/DEIS documentation remains at only a 15% concept design, which hinders adequate review.

The extremely restricted review and comment process result in the remainder of these comments to necessarily[2] again focus on the localized impacts to J.G. Boswell Company's facilities located in Corcoran, CA. Reference is also made on occasion to impacts to the community and City of Corcoran. Attention is given to impacts that are ignored, unrecognized and undisclosed. These defects in the analysis in no way relieve the Authority of its duty to mitigate these impacts.

The discussion is organized as follows:

Alternative C1 - Corcoran Elevated Alignment
Alternative C2 - Corcoran Bypass Alignment
Alternative C3 – BNSF Alignment
Impacts to Proposed Solar Facility at the Nevada Avenue Crossing

[2] It was not possible in the time available to engage suitable outside consultants to address the more general aspects of the DEIR/DEIS. Such consultants are not retained nor is their work performed in the severely limited time that that was available. The focus had to be on the Company's activities and facilities along the various alternative alignments in the Corcoran area.

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II. ALTERNATIVE C1 - THE CORCORAN ELEVATED ALIGNMENT WILL HAVE SIGNIFICANT NEGATIVE ADVERSE IMPACTS TO THE AGRICULTURAL PROCESSING FACILITIES LOCATED ON BOTH SIDES OF THE EXISTING BNSF TRACKS.

J.G. Boswell Company owns and operates various agricultural processing facilities that are significantly and negatively impacted by the HST Corcoran Elevated Alternative Alignment. Adjacent or in close proximity to the Corcoran segment of the Corcoran Elevated Alternative are office facilities, a vegetable oil processing mill, cotton gins, seed treatment facilities, seed storage facilities, warehouse facilities, cotton bale and cotton module storage yards, irrigation pumps, water conveyance structures, and various other agricultural commodity processing operations plus shops, vehicle storage sites, fueling locations, etc. In addition to generating substantial economic activity, these operations provide significant employment for the general region. The noise, aesthetics, and impacts to existing structures and employees are adverse and substantial.

Each of the facilities are subject to various regulatory programs administered by multiple state and federal agencies, including but not limited to, State and federal occupational health and safety standards, air quality, water quality, storm water, and other requirements. Many of the permits issued to specific facilities would be affected by the Corcoran Elevated Alternative impacts on the respective facility (e.g., closure, relocation, etc.). One of the main problems encountered was lack of detail in the alignments. Addressing the impacts of the Corcoran Elevated Alternative utilizing the revised DEIR/DEIS conceptional level (15 percent) design plans creates a significant and burdensome requirement. The lack of detail forced the Company's staff to provide data detailing its site specific utilities, pipelines, conveyance structures, traffic patterns, and structures.

Limited and legally inadequate time was provided to review the revised DEIR/DEIS and the supporting technical reports and alignments. Therefore, in the limited time available, J.G. Boswell Company's efforts concentrated on the impacts identified within selected sections of the revised DEIR/DEIS.[3] Due to the insufficient time for the comment period, our efforts again concentrated on reviewing the following sections:

1. Noise and Vibration.
2. Socioeconomics, Communities, and Environmental Justice.
3. Volume III: Section A - Alignment Plans Part 1.

Noise and Vibration Section 3.4:

J.G. Boswell Company again developed scaled renditions of the agricultural processing facilities in order to analyze the impacts of the Corcoran Elevated Alternative on the industrial facilities and identify facilities that are impacted by the project. Also reviewed were traffic circulation patterns within the Corcoran Elevated Alternative Alignment on operations and potential impacts. Based on J.G. Boswell Company's experience in operating these facilities, the impacts are significant and adverse.

[3] The legally inadequate comment/review period also precluded being able to assemble the consultants and experts who could have materially assisted the review.

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As such, the revised DEIR/DEIS Section 3.4 is deficient in addressing the noise and vibration impacts to J.G. Boswell Company's agricultural processing facilities. The noise impacts to employees at industrial operations are represented by only one monitoring site study. The additional noise and vibration from the HST is not specifically addressed; there is only a generalized analysis to residences and sensitive receptors. The combination of noise and vibration from current processes, the existing rail, and HST would be adverse and substantial. Section 3.4 states in part: "There would be substantial effects under NEPA and significant impacts under CEQA for many of the receivers along the Corcoran Elevated Alternative Alignment, before consideration of mitigation. Table 3.4-10 lists the number of sensitive receivers along the Corcoran Elevated Alternative that may receive moderate or severe noise impacts from operation of the proposed project. There are 450 additional severe noise impact receivers and 745 additional moderate noise impact receivers with this alternative. Appendix 3.4-A Noise and Vibration Tables 6 and 7 (pp. 3.4-A-45, 46) list the potential noise impacts under the Corcoran Elevated Alternative Alignment without mitigation for the design year (2035) at each of the locations where existing noise measurements were conducted.

BO049-5

This manner of procedure constitutes impermissible deferred mitigation. Sound is a form of energy that travels through the air and causes vibrations on the human ear drum that allows the human to process the sound into something that is *perceived* to be heard. Perceived sound or loudness is a physiological effect that is described as being unique to each individual human, which means that the sound of an alarm can affect everyone differently. The sound of a high-speed train will also result with the same unique perception. Perceived loudness is further explained to be expressed in units that are called sones or phons[4]. Both sones and phons are described as analogous, which means that both sones and phons are related in that they are measured in decibels, abbreviated as dB. The decibel scale and the intensity values it is based on is an objective measure of a sound. While intensities and decibels (dB) are measurable, the loudness of a sound is subjective. Sound loudness varies from person to person. Furthermore, sounds with equal intensities but different frequencies are perceived by the same person to have unequal loudness. For instance, a 60 dB sound with a frequency of 1000 Hz sounds louder than a 60 dB sound with a frequency of 500 Hz. It is important to note that generally people and businesses do not ask for decibel values[5], people ask questions like "How often or how long should we expect our conversations or work concentration to be interrupted as a result of passing trains?" or "Will the community be able to experience a restful night's sleep?" ***The High Speed Rail brings a completely new foreign and hitherto unknown severe sound impact for the layperson and businesses. New and innovative analysis and mitigation measures are warranted.***

BO049-6

The universally accepted calculation method to measure noise types, that is noise from industry, construction, transportation, households and communities, and leisure activities, have guidelines that are referred to in the ISO Standard 1999. These guidelines are generally used to measure sound for activities based on time exposure to noise from any noise that is measured above 70 dB (ISO, 1990 and WHO, 2008). The negative health risks the public will be exposed to when noise pollution from the HST occurs is in addition to and combined with air pollution exposure and their outcomes. Negative health outcomes such as cardiovascular disease, fatigue from lack of a good night's sleep, learning disabilities-specifically reading can develop from excessive noise

[4] Tatum, Jeremy B., Physics, Physiology and Psychology, University of Victoria, Victoria, BC Canada, (1996)
[5] Skarback, Eric; "Noise Measurements and Rail Traffic Development: A Swedish Case Study", Environmental Practice 9 (2) (June 2007).

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BO049-6

pollution. In contrast, the revised DEIR/DEIS fails to reference any recent (within 5 years) existing American or Japanese rail noise and/or vibration studies in general or in reference to station bridges. The DEIR/DEIS simply references the federal guidelines.

BO049-7

The NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.4.8 and 3.4.9 are deficient due to the absence of analyzing the site-specific effects of noise and vibration on the J.G. Boswell Company's agricultural processing facilities, including structures and employees. Section 3.4.8 states that "an increase in noise level is considered highly annoying by the general population [and] it would be considered a severe impact under FRA criteria. Based on FRA noise criteria, the magnitude of the noise increase from the HST Project would result in impacts with substantial intensity. The range of sensitive receptors severely impacted at full system operations is from 1,945 to 5,069 depending on the combination of alternative alignments selected to provide a single alignment from Fresno to Bakersfield."

BO049-8

J.G. Boswell Company disagrees with the noise and vibration analysis performed for Alternative C1. Additional site specific noise and vibration studies are recommended to be conducted analyzing the short and long term impacts to existing structures including noise level exposure to employees at the J.G. Boswell Company from the Alternative C1 Alignment. The noise impacts on processing employees and office personnel have not been studied and should be. The additive noise effect of both HST operation and that of the existing rail road in instantaneous interruptions and the psychological effects of such frequent interruptions must be studied. This must be analyzed further to understand the additional mitigation required, or conversely to determine if such mitigation is even possible.

BO049-9

On page 3.4-72, the statement is made "Based on FRA noise criteria, the magnitude of the noise increase from the HST Project would result in impacts with substantial intensity." We agree, the opinion of the J.G. Boswell Company is that the noise and vibration impacts are severe and will affect the entire community and businesses. The long term social and economic structure of the community will be adversely impacted, as the ability to locate talent for local businesses will diminish and residents who are able will relocate elsewhere.

BO049-10

Summary DEIR/DEIS Section 3.4 Noise and Vibration

Due to insufficient time to address the revised DEIR/DEIS Noise and Vibration not all deficiencies have been addressed in detail, but suffice it to say that the above significant deficiencies may be added too or amended at a later date. The NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.4.8 and 3.4.9 respectively are both severe and significant. Table and 3.4.34 are deficient due to the absence of analyzing the site specific effects of noise and vibration on the J.G. Boswell Company's employees and facilities. An entirely different approach to analyzing and mitigating these severe and significant impacts in addition to or other than decibels is required for this project. The Noise and Vibration Technical Report does not address the long term psychological health effects. Contrary to the assertions made within the revised DEIR/DEIS, there is no other transportation project of this magnitude in the Nation from which actual operating data may be considered similar.

BO049-11

Section 3.12 Socioeconomics, Communities, and Environmental Justice

Draft DEIR/DEIS Section 3.12 is deficient in addressing Disruption or Division of Existing Communities from the Corcoran Elevated Alternative Alignment. The revised DEIR/DEIS states on page 3.12-70 "This alternative alignment would be identical to the BNSF Alternative, except for the portion of the alignment that passes through the city of Corcoran. Here the alignment would be elevated from Nevada Avenue to 4th Avenue, traveling along the eastern side of the existing BNSF Railway right-of-way. Because the guideway would be elevated and on the eastern side of the tracks, there would be substantially fewer property displacements than under the BNSF Alternative. Only one home and one small business (an auto body shop) would be displaced in Corcoran. The associated noise and visual impacts close to the downtown center and residential areas would hinder outdoor interactions, degrade the quality of downtown gathering places, and result in perceptions of reduced quality of life in the community over the long term, and therefore would be considered of substantial intensity on the community under NEPA and as a less-than-significant impact under CEQA."

BO049-12

The revised DEIR/DEIS then goes on to state on page 3.12-89 "Corcoran Elevated Alternative. One commercial or industrial business relocation with 3 employees would be displaced along the Corcoran Elevated Alternative compared with the 16 business and 51 employees in the corresponding portion of the BNSF Alternative. This alternative would have a negligible intensity for commercial and industrial business operations under NEPA." This is a totally erroneous statement. As noted in previous comments, and again here, the Corcoran Elevated Alternative will result in the displacement of a highly significant seed cleaning and grain storage facility. Displacement of the Warehouse B Seed Cleaning and associated grain storage "D" tanks will affect over forty (40) permanent well paying jobs. This is a highly significant issue previously discussed with High Speed Rail Authority staff. As noted on the attached rendition, C1 Corcoran Elevated Alternative encroaches on Warehouse B, the "D" Tanks storage facility, the grading station, scale, and associated unloading facilities. As noted in discussions with HST staff on August 29, 2012, due to alternative C-1's potential impact to Warehouse B and the adjacent seed tanks, the building(s) would likely be demolished. Authority representatives noted that the "D" tanks may be spared but could not give a definite answer since those decisions are made by the HST Right Of Way department.

BO049-13

Provided that the sequence of events are such that Alternative C1 is the preferred alternative and the "D" tanks remain, the construction contractor must be agreeable to scheduling construction around Boswell's activities, which tend to be seasonal. In addition, under any preferred alternative selected, the HST construction contractor must be agreeable to scheduling activities around the agricultural processing facility activities. Further, HST operations must be agreeable to allowing access and operation under the viaduct to accommodate processing facility transportation operations where needed.

BO049-14

The statement that these impacts are less than significant under CEQA due to "an existing transportation corridor and availability of relocation resources" is misleading. The NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.12.8 and 3.12.9 are deficient due to the absence of identifying J.G. Boswell Company's agricultural processing facilities as an affected business subject to closure and relocation.

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BO049-15

The continued confusion regarding the jobs data and population data reported for the City of Corcoran resulting from the bias introduced by the inmate population and jobs statistics from the two state prisons is significant and must be corrected. This is a significant deficiency in the DEIR/DEIS which in our opinion undervalues the job loss impact from business closures to the City and the resulting project induced economic impact to the City.

BO049-16

Summary EIR/EIS Section 3.12 Socioeconomics, Communities, and Environmental Justice

Due to insufficient and legally inadequate time to address the revised DEIR/DEIS Socioeconomics, Communities, and Environmental Justice on the agricultural processing facilities, not all deficiencies have been addressed in detail. Suffice it to say that the above significant deficiencies may be added too or amended at a later date. Each of the aforementioned deficiencies are significant adverse impacts. As such, the NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.12.7 and 3.12.8 are deficient due to the absence of identifying J.G. Boswell Company's agricultural processing facilities as an affected business subject to closure and relocation.

The base engineering criteria used to review Transportation Section 3.2 was the High Speed Rail Authority's Publication Volume III Section C – Roadway and Grade Separation Plans Part 1 of 2. In house engineering staff developed a rendition map of the impacts from the proposed Corcoran Elevated Alternative Alignment. That map is attached and an explanation of the impacts is listed below keyed to the numbers shown on the attached map.

BO049-17

As noted in previous comments, in the aggregate, the impacts noted in these comments and in the detail below will result in the closure of the facility, since relocation may not be an option, and additional analysis has indicated that this would result in the potential loss of over 40 jobs.

BO049-18

1. THE CORCORAN ELEVATED ALTERNATIVE REQUIRES RELOCATION OF THE PG&E 12kV OVER HEAD DISTRIBUTION LINE ALONG THE EAST SIDE OF SANTA FE AVENUE.

The revised DEIR/DEIS is deficient in analyzing the PG&E overhead 12-kV electrical service line serving the community and J.G. Boswell Company's agricultural processing facility. The Corcoran Elevated Alternative would impact PG&E overhead 12KV electrical service line thereby affecting the J.G. Boswell Company agricultural processing facility.

BO049-19

2. RELOCATION OF THE CONNECTION POINT OF PG&E'S 12kV OVERHEAD DISTRIBUTION LINE EASTERLY ALONG THE NORTH SIDE OF SHERMAN AVE EXTENDED.

The revised DEIR/DEIS is deficient in analyzing the PG&E overhead 12KV electrical service line serving the community and J.G. Boswell Company's agricultural processing facility. The Corcoran Elevated Alternative would impact the PG&E overhead 12KV electrical service line thereby affecting J.G. Boswell Company's agricultural processing facility.

BO049-20

3. REVISION OF PG&E 12 kV OVERHEAD DISTRIBUTION LINE FROM WEST SIDE OF PICKERELL AVE INTO NORTHEAST CORNER OF J.G. BOSWELL COMPANY'S WEST AGRICULTURAL PROCESSING SITE.

The revised DEIR/DEIS is deficient in analyzing the revision to the PG&E overhead 12-kV distribution line from the west side of Pickerel Avenue into the northeast corner of J.G. Boswell Company's west agricultural processing facility. The issue of analyzing the relocation of this line is important because it is essential to the operation of the facilities.

BO049-21

4. RELOCATION OF UNDER GROUND PULL/SPLICE BOX FOR J.G. BOSWELL COMPANY'S MAIN FIBER OPTIC COMMUNICATIONS CABLE BETWEEN THE WEST AND EAST AGRICULTURAL PROCESSING FACILITIES.

The revised DEIR/DEIS is deficient in analyzing the relocation of the underground pull/splice box for J.G. Boswell Company's main fiber-optic communication cable between the east and west of J.G. Boswell Company's agricultural processing facilities. The issue is whether maintenance will be able to continue on this main communication with the operation of the HST.

BO049-22

5. RELOCATION OF THE SAMPLING PLATFORM AT CALIFORNIA STATE GRADING STATION.

The revised DEIR/DEIS is deficient in analyzing the relocation of the sampling platform at the California State Grading station. The California Department of Food and Agriculture maintains a sampling station at the east facility. This is an important regional commodity sampling station; the HST DEIR/DEIS must address the continued operation of the station and under what conditions.

BO049-23

6. LOSS OF TRUCK PARKING AND TRAFFIC FLOW PATTERN AT THE GRAIN GRADING STATION.

The revised DEIR/DEIS is deficient in analyzing the loss of truck parking and traffic flow pattern at the grain grading station serving the J.G. Boswell Company agricultural processing facility east of the Corcoran Elevated Alternative for the reasons stated in item 5 above.

BO049-24

7. RELOCATION OF J.G. BOSWELL COMPANY'S EAST SITE, MAIN NORTH SOUTH SURFACE RUNOFF COLLECTION SWALE/GUTTER.

The revised DEIR/DEIS is deficient in analyzing the stormwater regulatory impacts for impacted industrial sites. The Corcoran Elevated Alternative effects individual elements of the total surface runoff collection system that may result in the necessity to completely redesign the site's grading to accommodate the drainage.

BO049-25

8. RELOCATION OF J.G. BOSWELL COMPANY'S EAST SITE, WEST SIDE SURFACE RUNOFF COLLECTION SUMP AND PUMP STATION.

The revised DEIR/DEIS is deficient in analyzing the stormwater regulatory impacts for impacted industrial sites. The Corcoran Elevated Alternative effects individual elements of the total surface runoff collection system that may result in the necessity to completely redesign the site's grading to accommodate the drainage.

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BO049-26

9. RELOCATION OF PUMPED OUTFLOW LINE ALONG THE EAST SIDE OF SANTA FE AVENUE.

The revised DEIR/DEIS is deficient in analyzing the stormwater regulatory impacts for impacted industrial sites. The Corcoran Elevated Alternative effects individual on elements of the total surface runoff collection system may result in the necessity to completely redesign the site's grading to accommodate the drainage.

BO049-27

10. RELOCATION OF 8" DIAMETER J.G. BOSWELL COMPANY'S WATER LINE ALONG THE EAST SIDE OF SANTA FE AVENUE.

The revised DEIR/DEIS is deficient in analyzing the relocation of the 8" diameter J.G. Boswell Company's water line along the east side of Sante Fe Avenue thereby affecting the east J.G. Boswell Company's agricultural processing facility.

BO049-28

11. RELOCATION OF 12kV SERVICE/METER POLE FOR JGB GIN#5.

The revised DEIR/DEIS is deficient in analyzing the relocation of the 12 kV service/meter pole for the east agricultural processing facility cotton gin number five. The relocation of this structure affects the operation of the entire cotton gin. The Authority must note the requirement for agricultural commodities to be processed on a timely basis and construction operations must not interfere with the timely operation of these facilities.

BO049-29

12. INTERFERENCE WITH RAILROAD SPURS INTO EAST SITE AT "D" TANKS.

The revised DEIR/DEIS is deficient in analyzing interference with the railroad spur into the east site at the large capacity storage tanks. The lack of detail in the design maps prevents an accurate determination of this effect, but presently our analysis indicates that the lead-out structures for the D-tanks will be rendered unusable.

BO049-30

13. LOSS OF TRUCK PARKING AND TRAFFIC FLOW PATTERN AT RANCH OFFICE (EAST) TRUCK SCALES.

The revised DEIR/DEIS is deficient in analyzing the loss of truck parking and traffic flow patterns at the east J.G. Boswell Company agricultural processing facility Ranch Office. The elimination of the truck parking and altering of the traffic patterns may require a redesign of the facility. The Authority should recognize that altering traffic flows and access requires facility design modifications that could be very significant.

BO049-31

14. LOSS OF RANCH OFFICE PARKING LOT AND TRAFFIC PATTERN.

The revised DEIR/DEIS is deficient in analyzing the loss of parking and traffic flow pattern at the east J.G. Boswell Company agricultural processing facility Ranch Office. The elimination of the truck parking and altering of the traffic patterns may require a redesign of the facility. The Authority should recognize that altering traffic flows and access requires facility design modifications that could be very significant. This effect is similar to item 13 above.

BO049-32

15. ELEVATED EXPOSURE LEVELS OF NOISE AND VIBRATION TO EAST TOWNSITE

The revised DEIR/DEIS is deficient in analyzing the noise and vibration impacts to J.G. Boswell Company's agricultural processing facilities. The noise impacts to employees at industrial operations is deficient. The NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.4.8 and 3.4.9 are deficient due the absence of analyzing the site specific effects of noise and vibration on the J.G. Boswell Company's agricultural processing facilities, including structures and employees. Section 3.4.8 states that "an increase in noise level is considered highly annoying by the general population [and] it would be considered a severe impact under FRA criteria. Based on FRA noise criteria, the magnitude of the noise increase from the HST Project would result in impacts with substantial intensity. The range of sensitive receptors severely impacted at full system operations is from 1,945 to 5,069 depending on the combination of alternative alignments selected to provide a single alignment from Fresno to Bakersfield."

J.G. Boswell Company disagrees with the noise and vibration analysis performed for Alternative C1. Additional site specific noise and vibration studies are recommended to be conducted analyzing the short and long term impacts to existing structures including noise level exposure to employees at the J.G. Boswell Company from the Alternative C1 Alignment. The noise impacts on processing employees and office personnel have not been studied and should be. The additive noise effect of both HST operation and that of the existing rail road in instantaneous interruptions and the psychological effects of such frequent interruptions must be studied. This must be analyzed further to understand the additional mitigation required, or conversely to determine if such mitigation is even possible

BO049-33

16. REDUCED ACCESS, LOSS OF PARKING (STAGING AREA) AND TRUCK TRAFFIC FLOW PATTERN AT WEST ELEVATOR/WEST SIDE LOAD OUTS AND SHANZER DRYER.

The revised DEIR/DEIS is deficient in analyzing the loss of parking (staging area) and truck traffic flow patterns at the east J.G. Boswell Company agricultural processing facility's west elevator/west side load outs and Shanzer dryer. The Authority should recognize that altering traffic flows and access requires facility design modifications that could be very significant. This effect is similar to item 13 above.

BO049-34

17. POSSIBLE REVISION/RELOCATION OF EAST SITE PUMPED SEWER LINE.

The revised DEIR/DEIS is deficient in analyzing impacts of the HST on the east townsite pumped sewer line. Significant modifications will be necessary to the remainder of the system to address the pump station relocation. The replacement, redesign, and relocation of the pumped sewer line will disrupt activities at the site.

BO049-35

18. LOSS OF ACCESS AND REDUCED TRAFFIC FLOW PATTERN AT "D" TANKS WAREHOUSE.

The revised DEIR/DEIS is deficient in analyzing the impacts to the J.G. Boswell Company agricultural processing facility. The Corcoran Elevated Alternative will eliminate vehicle access to the north entrance (emergency access) of the west processing site. This is an adverse and significant impact to the security and safety of the facility.

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BO049-36

19. COMPLETE LOSS OF WAREHOUSE "B", TRUCK DOCK, AND RAILROAD SPUR.

The revised DEIR/DEIS is deficient in analyzing the Corcoran Elevated Alternative's impacts to the J.G. Boswell Company agricultural processing facility Warehouse "B". The Corcoran Elevated Alternative will eliminate the warehouse, truck dock, and railroad spur. This compete loss of a facility is a significant and adverse impact to the operations of the J.G. Boswell Company.

BO049-37

20. LOSS OF SURFACE WATER DRAINAGE SYSTEM AT SOUTH END OF EAST SIDE.

The revised DEIR/DEIS is deficient in analyzing he loss of the existing surface drainage system at the south end of the east J.G. Boswell Company agricultural processing facility. The Corcoran Elevated Alternative's effect on individual elements of the total surface runoff collection system may result in the necessity to completely redesign the site's grading to accommodate the drainage. This impact is ignored.

BO049-38

21. REDUCED MODULE STORAGE YARD CAPACITIES.

The revised DEIR/DEIS is deficient in analyzing the localized impacts of the Corcoran Elevated Alternative to the East Facility cotton ginning operations and seed cleaning and storage operations. The revised DEIR/DEIS is silent in analyzing the setback requirements for cotton module storage and other risk avoidance measures created by the loss of cotton module storage yard area. Decease in the module yard storage area caused by the relocation or closure of Sante Fe Avenue may have the unintended consequent of limiting the operating capacity of the cotton gin.

BO049-39

22. POSSIBLE REVISION TO TELEPHONE COMPANY'S MAIN FIBER OPTIC COMMUNICATIONS CABLE LOCATION AND COVER.

The revised DEIR/DEIS is deficient in addressing the impacts of the Corcoran Elevated Alternative to the telephone company's main fiber optic communication cable location and cover. The telephone company's main fiber optic communication cable affects the entire community. The Authority must recognize that any interruption to communication service represents a significant adverse impact.

BO049-40

23. ELEVATED EXPOSURE LEVELS OF NOISE AND VIBRATION TO EAST TOWNSITE.

The revised DEIR/DEIS is deficient in analyzing the noise and vibration impacts to J.G. Boswell Company's agricultural processing facilities. The noise impacts to employees at industrial operations is deficient. The NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.4.8 and 3.4.9 are deficient due the absence of analyzing the site specific effects of noise and vibration on the J.G. Boswell Company's agricultural processing facilities, including structures and employees. Section 3.4.8 states that "an increase in noise level is considered highly annoying by the general population [and] it would be considered a severe impact under FRA criteria. Based on FRA noise criteria, the magnitude of the noise increase from the HST Project would result in impacts with substantial intensity. The range of sensitive receptors severely impacted at full system operations is from 1,945 to 5,069 depending on the combination of alternative alignments selected to provide a single alignment from Fresno to Bakersfield."

BO049-40

J.G. Boswell Company disagrees with the noise and vibration analysis performed for Alternative C1. Additional site specific noise and vibration studies are recommended to be conducted analyzing the short and long term impacts to existing structures including noise level exposure to employees at the J.G. Boswell Company from the Alternative C1 Alignment. The noise impacts on processing employees and office personnel have not been studied and should be. The additive noise effect of both HST operation and that of the existing rail road in instantaneous interruptions and the psychological effects of such frequent interruptions must be studied. This must be analyzed further to understand the additional mitigation required, or conversely to determine if such mitigation is even possible

BO049-41

III. ALTERNATIVE ALIGNMENT C2 - CORCORAN BYPASS DOES NOT IMPACT PUBLIC SAFETY BY PASSING AT A POINT IN THE VICINITY OF THE PRIVATE SALYER FARMS AIRPORT.

As stated in the previous comments, J.G. Boswell Company owns and operates a private airport, the Salyer Farms Airport. Salyer Farms Airport is a 6818 foot long runway facility, located on the east side of Corcoran, and immediately to the west of State Highway 43. The airport is utilized by a variety of jet, turboprop, turbine helicopter, and piston engine aircraft. With other local public and private airports unable to handle some of these aircraft, there is no local suitable alternative. The revised Draft DEIR/DEIS now states on page 3.11-39 "… the project would not increase risks to people in the vicinity of the Salyer Farms Airport. No potential effects on public safety are indicated under NEPA, and impacts would be less than significant under CEQA."

BO049-42

IV. ALTERNATIVE C3 - THE BNSF ALTERNATIVE HAS SIGNIFICANT UNDISCLOSED ADVERSE IMPACTS INCLUDING IMPACTS ON EXISTING INFRASTRUCTURE AND ON THE OPERATION OF EXISTING AGRICULTURAL PROCESSING FACILITIES.

J.G. Boswell Company owns and operates various agricultural processing facilities that will be adversely impacted by the HST. Adjacent or in close proximity to the Corcoran segment of the HST BNSF Alternative are office facilities, a vegetable oil processing mill, cotton gins, seed treatment facilities, seed storage facilities, warehouse facilities, cotton bale and cotton module storage yards, irrigation pumps, water conveyance structures, and various other agricultural commodity processing operations and associated infrastructure including shops and vehicle fueling and storage areas. In addition to generating substantial economic activity, these operations provide significant employment for the general region.

Each of the facilities are subject to various regulatory programs administered by multiple state and federal agencies, including but not limited to air permits to operate, Regional Water Quality Control Board requirements, programs to manage hazardous materials and waste; utilities; and other requirements. These permits would be impacted by the through Corcoran BNSF Alternative. Attached is a rendition of the agricultural processing facilities situated east and west of the proposed BNSF Alternative, which bisects the operation.

As a limited and legally insufficient time was provided to review the revised DEIR/DEIS and the supporting technical reports and appendices, our efforts necessarily concentrated on the impacts identified with the following sections of the revised DEIR/DEIS:

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Transportation
Air Quality and Global Climate Change
Noise and Vibration
Hydrology and Water Resources
Socioeconomics, Communities, and Environmental Justice
Volume III: Section A - Alignment Plans Part 1

One of the main problems encountered were the lack of detail in the alignments. Addressing the impacts of the BNSF Alternative utilizing the revised DEIR/DEIS conceptional level (15 percent) design plans created a significant and burdensome requirement. The lack of detail forced our staff to provide data detailing our site specific utilities, pipelines, conveyance structures, traffic patterns, and facility impacts.

BO049-43

Transportation Section 3.2

As with the previous comments, our operations developed scaled maps or renditions of the BNSF Alternative so that we could analyze the impacts of the crossings and alignments on the industrial facilities. Our analysis identified significant deficiencies in the documents, both in the design and environmental impact analysis. The BNSF Alternative discussion regarding roadway closing and roadway crossings remains inadequate for the Corcoran segment. The revised DEIR/DEIS discussion centers on regional aspects but not on the specific off-site impacts created both by the localized project changes in the traffic patterns and the significant and irreversible adverse environmental impacts on J.G. Boswell Company agricultural processing facilities.

BO049-44

DEIR/DEIS Section 3.2 Transportation remains deficient; there is no detailed site specific analysis of the environmental impacts associated with the closure of Sante Fe Ave. In essence, the viaduct and Sante Fe Avenue closure restrict movement of heavy duty diesel trucks transporting commodities from the field to the facilities east of the BNSF Alternative. From the J.G. Boswell Company operational perspective the closure of Santa Fe Avenue effectively bars field commodities from being delivered via Sante Fe Avenue to the facilities east of the BNSF Alternative from the field and effectively results in the industrial site east of the tracks being landlocked. The Authority appears to assume, without substantial evidence, that all commodity truck traffic would be diverted via other, longer routes. The closure of Sante Fe Avenue constitutes a substantial adverse impact under NEPA and a significant impact under CEQA. The NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.2.7 and 3.2.8 are grossly deficient.

BO049-45

Air Quality and Global Climate Change Section 3.3

The revisions presented in the revised Draft DEIR/DEIS presented a different C3 setting to analyze in the context of Air Quality and Global Climate Change. Nonetheless, significant impacts remain and are not addressed within the document. J.G. Boswell Company personnel developed scaled renditions of the BNSF Alternatives so that they could analyze the impacts of the crossings and alignments on the industrial facilities and identify facilities that are permitted by air regulatory agencies. They also reviewed traffic circulation patterns within operations and potential impacts. The revised DEIR/DEIS discussion remains centered on regional aspects and not on the specific off-site impacts created both by the localized project changes in the traffic patterns and the environmental impacts on the City of Corcoran and J.G. Boswell Company agricultural processing facilities.

BO049-46

As noted previously, the revised DEIR/DEIS Section 3.3 regarding global climate change is deficient in not analyzing the localized air quality impacts from the revised traffic circulation patterns, particularly the microscale impacts as they relate from increase in vehicles miles traveled due to road closures, realignments, and congestion within the City of Corcoran with modifications such as the Orange Ave. intersection.

BO049-47

The revised DEIR/DEIS Section 3.3 remains deficient in analyzing microscale emission impacts. The section identifies the "Local" study area as having potential major air emission activities along the Project alignment and generally defined as areas within 1,000 feet of the proposed stations, major intersections and HMFs." According to the Air Quality Technical Report only specific facilities proposed as part of the Project and a 1,000 foot buffer are analyzed for potential impacts and location of sensitive receptors. This defined "Study Area" fails to take into consideration the larger extent of Project imposed traffic congestion beyond a 1,000 foot buffer in the City of Corcoran, and must do so. This defined 'Study Area" fails to take into consideration localized wind circulation changes from overcrossing structures, construction, hauling and other project related impacts that will occur. The NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.3.7 and 3.3.8 are deficient due the absence of emissions studies specific to Corcoran and the affected processing sites requiring revision and recirculation of the revised DEIR/DEIS.

BO049-48

DEIR/DEIS Section 3.3 remains deficient in analyzing HST operational emissions. As far as we can tell, the revised DEIR/DEIS is silent on operational emissions monitoring as a mitigation measure. There is a PM 2.5 component of fugitive dust, while although minor, in aggregate would be substantial and considered significant in so far as the impact on nearby monitoring stations, as is the case in Corcoran. The statement is made on 3.3-63 that "These resuspended soil particles within 10 feet from the train would be the same for the 2035 No Project Alternative compared to the HST alternatives and the 2009 Existing Condition compared to the Existing Plus Project scenario (Tables 3.3-11 and 3.3-12)." As noted previously and here again, the passage in 3.3 states in part "The HST project would use electric multiple unit (EMUs) trains, with the power distributed through the overhead contact system. Combustion of fossil fuels and associated emissions from HST trains would not occur. [there is no substantial evidence for this statement] As noted previously, trains traveling at high velocities, such as those associated with the proposed HST, create sideways turbulence and rear wake, which resuspend particulates from the surface surrounding the track, resulting in fugitive dust emissions. Assuming a friction velocity of 0.19 meter/second (m/s) to resuspend soils in the project region, an HST passing at 220 mph could resuspend soil particles out to approximately 10 feet from the train (Watson 1996).[6] According to the EPA methodology for estimating emissions from wind erosion (EPA 2006b), HST operations would generate approximately 29.0 tons per year of PM10 of which 4.3 tons per year would be PM2.5. These emissions would be the same for the 2035 No Project Alternative compared to the HST alternatives and the 2009 existing compared to the existing plus project scenario (Tables 3.3-11 and 3.3-12)."

The above analysis extrapolates data from a study (Watson, J.G. 1996) that did not include measurements from HST activity, let alone a HST operating in close proximately to an existing freight train, as is the case in Corcoran with the BNSF Alternative. The effect of the entrainment of

[6] Watson, J.G. 1996. Effectiveness Demonstration of Fugitive Dust Control Methods for Public Unpaved Roads and Unpaved Shoulders on Paved Roads. DRI Document No. 685-5200.1F2. August 2, 1996.

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suspended particles, not only from the operation of the HST but in aggregation with the existing freight train, and the resulting resuspension and dispersion of the fine particulate matter, are not addressed in the revised DEIR/DEIS. Further, using interpolated emission factors (as is the case here) and models, HST operation may well experience a negative localized impact on coarse and fine particulate matter concentrations. These foreseeable worst case operational emissions are in contrast to the regional air quality benefits assertion presented in the revised DEIR/DEIS.

BO049-49

The San Joaquin Valley APCD operates a system of air quality monitoring stations. Attached to these comments is the San Joaquin Valley APCD 2011 Air Monitoring Network Plan, completed June 30, 2011 for Submittal to the U.S. Environmental Protection Agency in July 2011. The plan outlines the valley wide ambient monitoring network. The Corcoran monitoring station is located at 1520 Patterson Ave. An environmental impact not addressed in the revised DEIR/DEIS, which should also be the concern of the Authority, is that an exceedance at this single air monitoring site could result in the entire air basin being reclassified in non-attainment of the federal PM10 Standards, with additional local air quality regulations being promulgated and imposed on sources in Kings County and in Corcoran specifically. The unresolved potential impacts on the monitoring station cannot be understated, and revised stdies utilizing existing High Speed Trains should be conducted.

BO049-50

As stated in previous comments, the revised DEIR/DEIS is deficient in not utilizing regional specific emission factors developed in the San Joaquin Valley for high speed rail, especially in the arid southern San Joaquin Valley. The Authority must undertake emission studies to monitor the specific fugitive dust emissions resulting from the HST and adjust its analysis accordingly. The NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.3.7 and 3.3.8 are deficient due the absence of an analysis of the localized impacts to the Patterson Avenue ambient air monitoring station.

BO049-51

DEIR/DEIS Section 3.3 remains deficient in analyzing the air quality regulatory impacts to off-site facilities affected by construction of the HST. As stated in the revised DEIR/DEIS Air Quality Technical Report, "the project footprint would consist primarily of the train right-of-way, which would include both a northbound and southbound track in area typically100 feet wide. Additional right-of-way would be required to accommodate stations, multiple tracks at stations, maintenance facilities, and power substations." The discussions are primarily concerned within the impacted construction area, and operational aspects that will not be reiterated here. However, the potential regulatory requirements for affected businesses displaced by construction are not addressed nor discussed. These impacts can be significant, and result in environmental consequences not addressed or identified within the Air Quality Section 3.3.

BO049-52

Significant and adverse air quality regulatory impacts will be incurred by J.G. Boswell agricultural processing facilities as a result of the construction of the BNSF Alternative. The vegetable oil processing mill is a federal Title V regulated source and is additionally regulated by the San Joaquin Valley APCD (SJVAPCD). Any modification or change to the facility will result in modifications to the affected permits. As noted in Figure 2, there are impacts that individually or in aggregate would result in the potential closure of the facility. The Air Quality Technical Report identifies the SJVAPCD's New and Modified Source Review Rule, and indentifies that offsets above certain thresholds are required to be offset, but is silent on the issue of "Actual to Potential Emission" in permitting options faced by major sources. The revised DEIR/DEIS document remains silent on explaining the need for permit modifications to relocated emissions units within a

BO049-52

stationary source, and the regulatory requirements of such actions. Issuance of a federal Title V permit by the agency is not required, and in fact the permit can be denied. The NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.3.7 and 3.3.8 are deficient due the absence of emissions studies specific to Corcoran and the affected processing sites.

BO049-53

Summary of DEIR/DEIS Section 3.3 Air Quality and Global Climate Change: Agricultural Processing Facilities

The base engineering criteria we used to review Section 3.3 Air Quality and Global Climate Change was the High Speed Rail Authority's Publication Volume III Section C - Roadway and Grade Separation Plans Part 1 of 2. We referenced alignment C3 grade separation layout drawing number CT1277, 15% design submission and the Air Quality Technical report. The BNSF Alternative will result in the permanent closing or relocating of vegetable oil refinery operations, and the permanent closing and or relocation of grain and seed warehousing operations. The Authority appears to have overlooked the potential closing established multifaceted processing operations as a results of impacts that the HST on portions of the respective facility. The J.G. Boswell Company agricultural processing facilities are not mere retail establishments to be closed, bought out, or relocated; but instead are processing operations with significant regulatory burdens to be addressed as result of impacts from the local project. While not addressed here, the cost to the Authority for the BNSF Alternative's intrusion into the agricultural processing facilities will be significant. The NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.3.7 and 3.3.8 remain deficient due the absence of emissions studies specific to Corcoran and the affected processing sites.

BO049-54

The HST use of the Voluntary Emission reduction Agreement (VERA) with the San Joaquin Valley Unified Air Pollution Control District to create criteria pollutant offsets for construction related emissions is an acceptable mitigation measure for many of the impacts.

BO049-55

Noise and Vibration Section 3.4:

J.G. Boswell Company again developed scaled renditions of the agricultural processing facilities in order to analyze the impacts of the Corcoran Elevated Alternative on the industrial facilities and identify facilities that are impacted by the project. Also reviewed were traffic circulation patterns within the Corcoran Elevated Alternative Alignment on operations and potential impacts. Based on the Company's experience in operating these facilities, the impacts are significant and adverse.

As such, the revised DEIR/DEIS Section 3.4 is deficient in addressing the noise and vibration impacts to J.G. Boswell Company's agricultural processing facilities. The noise impacts to employees at industrial operations are represented by only one monitoring site study. The additional noise and vibration from the HST is not specifically addressed; there is only a generalized analysis to residences and sensitive receptors. The combination of noise and vibration from current processes, the existing rail, and HST would be adverse and substantial. Section 3.4 states in part: "There would be substantial effects under NEPA and significant impacts under CEQA for many of the receivers along the Corcoran Elevated Alternative Alignment, before consideration of mitigation. Table 3.4-10 lists the number of sensitive receivers along the Corcoran Elevated Alternative that may receive moderate or severe noise impacts from operation of the proposed project. There are 450 additional severe noise impact receivers and 745 additional moderate noise impact receivers

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with this alternative. Appendix 3.4-A Noise and Vibration Tables FRA noise criteria, the magnitude of the noise increase from the HST Project would result in impacts with substantial intensity. The range of sensitive receptors severely impacted at full system operations is from 1,945 to 5,069 depending on the combination of alternative alignments selected to provide a single alignment from Fresno to Bakersfield.

BO049-56

J.G. Boswell Company disagrees with the noise and vibration analysis performed for Alternative C1. Additional site specific noise and vibration studies are recommended to be conducted analyzing the short and long term impacts to existing structures including noise level exposure to employees at the J.G. Boswell Company from the Alternative C1 Alignment. The noise impacts on processing employees and office personnel have not been studied and should be. The additive noise effect of both HST operation and that of the existing rail road in instantaneous interruptions and the psychological effects of such frequent interruptions must be studied. This must be analyzed further to understand the additional mitigation required, or conversely to determine if such mitigation is even possible.

BO049-57

Summary DEIR/DEIS Section 3.4 Noise and Vibration

Due to insufficient time to address the revised DEIR/DEIS Noise and Vibration not all deficiencies have been addressed in detail, but suffice it to say that the above significant deficiencies may be added too or amended at a later date. The NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.4.8 and 3.4.9 respectively are both severe and significant. Sections 3.4.8 and 3.4.9 are deficient due the absence of analyzing the site specific effects of noise and vibration on the J.G. Boswell Company's employees and facilities. An entirely different approach to analyzing and mitigating these severe and significant impacts in addition to or other than decibels is required for this project. The Noise and Vibration Technical Report does not address the long term psychological health effects. Contrary to the assertions made within the revised DEIR/DEIS, there is no other transportation project of this magnitude in the Nation from which actual operating data may be considered similar.

On page 3.4-72, the statement is made "Based on FRA noise criteria, the magnitude of the noise increase from the HST Project would result in impacts with substantial intensity." The opinion of J.G. Boswell Company is that the noise and vibration impacts are severe and will affect the entire community and businesses. The long term social and economic structure of the community will be adversely impacted as the ability to locate talent for local businesses will diminish and residents who are able will relocate elsewhere.

BO049-58

Hydrology and Water Resources Section 3.8:

Company personnel developed scaled renditions of the BNSF Alternative so that we could analyze the impacts of the crossings and alignments on the industrial facilities. Our analysis identified significant deficiencies in the documents, both in the design and environmental impact analysis. The revised DEIR/DEIS discussion centers on regional aspects but not on the specific off-site impacts created both by the localized project changes to issues identified in the Hydrology and Water Resources chapter and the significant adverse environmental impacts on the J.G. Boswell Company agricultural processing facilities.

BO049-59

DEIR/DEIS Section 3.8 remains deficient in analyzing and addressing stormwater impacts on facilities affected by site modifications created by the construction of the HST. The revised DEIR/DEIS discusses the requirements of the statewide General Permit for Stormwater Discharges Associated with Construction Activity but fails to address construction and operation impacts to facilities subject to the Industrial Storm Water General Permit beyond the established construction footprint. The revised DEIR/DEIS describes the study area for hydrology and water resources as the area within 100 feet of both sides of the right-of-way for each alternative alignment. The study area includes the project's proposed physical ground disturbance footprint (e.g., stations, track, equipment storage areas, substations, temporary construction areas) and includes the construction footprint. However, no analysis is provided regarding the stormwater regulatory impacts imposed on existing businesses by the construction and operation of the HST. The J.G. Boswell Company agricultural processing facilities are significantly impacted by the construction activity and the overcrossing structures. The NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.8.7 and 3.8.8 are deficient due the absence of detailed discussions on the requirements for affected businesses with their stormwater regulatory requirements.

BO049-60

The agricultural processing facilities east and west of the BNSF will be impacted by the HST. Each facility may encounter increased velocities in flow due to the drainage from the overcrossing facilities. These impacts will require costly redesign of the facility grading and stormwater flow management to address potential environmental impacts.

BO049-61

Summary of Revised DEIR/DEIS Section 3.8 Hydrology and Water Resources Agricultural Processing Facilities

Due to the legally insufficient time to address the revised DEIR/DEIS Section 3.8, Hydrology and Water Resources, not all deficiencies have been addressed in detail; but suffice it to say that in addition to the above significant deficiency the project affects water conveyance and destroys an existing water well in the immediate project area. The track will be enclosed inside barriers and will be completely grade separated. At water crossings over canals, laterals, and other water distribution infrastructure the tracks will block the passages along the tops of the canal banks used by ditch tenders and maintenance equipment, and sufficiently detailed engineering plans are not yet available that address the needs of these individual water entities. Vehicle movement for operations and maintenance will be subject to detours to reach the other side of the grade separated tracks. This will cause additional emissions and expenditure of time due to this circuitry of access. The revised DEIR/DEIS fails even to recognize the impacts from blockage of canal operations and maintenance travel, and therefore there is no evaluation of these impacts. Each of the aforementioned deficiencies are significant adverse impacts. As such, the NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.8.7 and 3.8.8 are deficient because these impacts are not fully disclosed or evaluated. As with the other impact areas discussed in this comment letter, the Project and the revised DEIR/DEIS impermissibly off-loads impacts and the regulatory compliance issues arising therefrom onto the local community.

BO049-62

Socioeconomics, Communities, and Environmental Justice 3.12 Agricultural Processing Facilities

As noted previously, J.G. Boswell Company developed scaled renditions of the BNSF Alternative to assist in analyzing the impacts of the crossings and alignments on the industrial facilities and identify affected facilities subject to substantial adverse impacts. For Socioeconomics,

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Communities, and Environmental Justice J.G. Boswell Company reviewed the data presented in the revised DEIR/DEIS and identified the deficiencies in the revised DEIR/DEIS impacts on the J.G. Boswell Company together with the community (where appropriate).

BO049-63

The revised DEIR/DEIS Section 3.12 remains deficient in addressing the Property and Sales Tax Revenue Changes as a result of the project. The revised DEIR/DEIS states that "short-term reductions in these revenues caused by land acquisition are expected to be more than offset by long-term increases in the regional property and sales tax bases resulting from the improved connectivity of the region to the rest of the state." This statement is ingenuous because there will be no improved connectivity for Corcoran or its citizens. The comment exposes the flaw in the revised DEIR/DEIS which throughout ignores and avoids specific impacts and adverts to claimed state-wide or regional benefits. However the revised DEIR/DEIS fails to address the effects on the City of Corcoran, which will be severely impacted by loss of jobs and sales tax revenues from the closure of agricultural processing facilities resulting from the construction and operation of the BNSF Alternative. The NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.12.8 and 3.312.9 are deficient due the absence of property and sales tax revenue analysis specific to Corcoran and Kings County.

BO049-64

The revised DEIR/DEIS Section 3.12 remains deficient in addressing Disruption or Division of Existing Communities from the BNSF Alternative Alignment. The revised DEIR/DEIS states at 3.12 - 66: "To the south, the BNSF Alternative would curve west and then south through agricultural areas, rejoining the BNSF Railway right-of-way (along the western side) just north of the City of Corcoran. The alignment would travel through the eastern edge of the City of Corcoran at-grade, along the western side of the existing BNSF Railroad right-of-way. The HST tracks and new road overcrossings would displace 48 homes, including a substantial portion of a mobile home/RV park near the downtown area. It would also displace up to 16 commercial-industrial businesses in Corcoran, including the Amtrak station building that houses the City's Chamber of Commerce offices, a community market, and several automotive businesses. The HST tracks would be within approximately 200 feet of the City Hall building. The displacements, along with the increased noise and visual impacts associated with the HST project, could affect social interactions, community cohesion, and the perceived quality of life in Corcoran. This effect would be of moderate to substantial intensity under NEPA, but a less-than-significant impact under CEQA, because of the presence of an existing transportation corridor dividing the community and availability of relocation resources in the community." "The displacements, along with the increased noise and visual impacts associated with the HST project, could affect social interactions, community cohesion, and perceived quality of life in Corcoran. This would be a moderate to substantial effect under NEPA, but a less-than-significant impact under CEQA, because of the presence of an existing transportation corridor and availability of relocation resources in the community." The statement that these impacts are less than significant under CEQA due to "an existing transportation corridor and availability of relocation resources" is misleading. The existing corridor does not contain elevated tracks and sound barriers that divide and destroy jobs. The J.G. Boswell Company disagrees that the additional noise will not create a significant impact under CEQA. The noise and public health impacts on employees and office personnel have not been studied to account for the additive noise effect of both HST operation and the existing freight railroad.

To also state that the ability of relocation resources will suffice as adequate mitigation for J.G. Boswell Company and the Corcoran community on the loss of high value agricultural processing facilities is misleading and inappropriate, and without substantial evidence. The facilities

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are subject to closure under the BNSF Alternative. The NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.12.8 and 3.12.9 are deficient due the absence of identifying the J.G. Boswell Company's agricultural processing facilities as an affected business subject to closure and relocation (assuming the latter is possible). These impacts must be much analyzed further to understand what additional mitigation is required to fully understand the job losses and costs.

BO049-65

Summary DEIR/DEIS Section 3.12 Socioeconomics, Communities, and Environmental Justice Agricultural Processing Facilities

Due to legally insufficient time to address the revised DEIR/DEIS Socioeconomics, Communities, and Environmental Justice, not all deficiencies in the recognition and analysis of impacts on the agricultural processing facilities have been addressed in detail; suffice it to say that in addition to the above significant deficiencies, these comments may be amended at a later date. Each of the aforementioned deficiencies are significant adverse impacts. As such, the NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.8.7 and 3.8.8 are deficient due the absence of emissions studies specific to Corcoran and the affected processing sites. The NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.12.8 and 3.12.9 are deficient due the absence of identifying the J.G. Boswell Company's agricultural processing facilities as an affected business subject to closure and relocation.

The continued confusion regarding the jobs data and population data reported for the City of Corcoran resulting from the bias introduced by the inmate population and jobs statistics from the two state prisons is significant and must be corrected. This is a significant deficiency in the DEIR/DEIS which in our opinion undervalues the job loss impact from business closures to the City and the resulting project induced economic impact to the City.

BO049-66

Volume III: Section A - Alignment Plans Part 1 Impacts on Agricultural Processing Facilities

J.G. Boswell Company owns and operates various agricultural processing facilities affected by the HST. Adjacent or in close proximity to the Corcoran segment of the HST BNSF Alternative are office facilities, a vegetable oil processing mill, cotton gins, seed treatment facilities, seed storage facilities, warehouse facilities, cotton bale and cotton module storage yards, irrigation pumps, water conveyance structures, and various other agricultural commodity processing operations. In addition to generating substantial economic activity, these operations provide significant employment for the general region.

The base engineering criteria used to review Transportation Section 3.2 was the High Speed Rail Authority's Publication Volume III Section C -Roadway and Grade Separation Plans Part 1 of 2. We referenced alignment C3 grade separation layout drawing number CT1277, 15% design submission. Alignment C3 - BNSF Alternative presents significant challenges to the continued operation of J.G. Boswell Company's Corcoran agricultural processing facilities. The BNSF Alternative will result in the permanent closing of vegetable oil refinery operations, and the permanent closing and or relocation of grain and seed warehousing operations. To highlight the impacts of construction and operation on the facility and the environment, J.G. Boswell Company has developed a the rendition map that identifies 19 major impacts to the J.G. Boswell Company agricultural processing facilities. The following list identifies and briefly describes these 19 significant and adverse impacts by number keyed to the enclosed map sheet.

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As noted in previous comments, in the aggregate, the impacts noted in these comments and in the detail below will result in the closure of the facility, since relocation may not be an option, and additional analysis has indicated that this would result in the potential loss of over fifty (50) permanent jobs. Furthermore, the CALIFORNIA HIGH SPEED RAIL AUTHORITY is hereby notified that the loss of these facilities would result in an direct cost to the Authority in excess of $100,000,000 to $150,000,000 (One Hundred Million Dollars to One Hundred Fifty Million Dollars.). These costs include direct net income stream losses, facility costs, and environmental regulatory costs.

1. 6" DIAMETER HIGH PRESSURE NATURAL GAS LINE ALONG EAST SIDE OF BNSF.

The revised DEIR/DEIS is deficient in addressing the main natural gas pipeline serving the Corcoran community and the J.G. Boswell Company agricultural processing facility. The HST design may eliminate access to this pipeline and require rerouting and redesign of the gas delivery system. For additional reference, this main high pressure natural gas line also supplies the J.G. Boswell Tomato Company processing plant with a tie in line just south of the agricultural processing facility. Significant utilities such as the Main High Pressure Natural Gas Line in Corcoran are potential high risk hazards that this Tier Two Environmental Review is required to identify; the revised DEIR/DEIS fails to do so even in light of the recent disaster that incurred in San Bruno.

BO049-68

2. GAS COMPANY PRESSURE REDUCING STATION IN NORTHEAST CORNER OF JGB YARD.

The revised DEIR/DEIS is deficient in addressing the natural gas pressure reducing station serving the community and J.G. Boswell Company agricultural processing facility. HST construction may eliminate this natural gas pressure reducing station and require rerouting and redesign of the gas delivery system to the facility.

BO049-69

3. MEDIUM PRESSURE NATURAL GAS LINE UNDER SHERMAN AVENUE.

The revised DEIR/DEIS is deficient in addressing impacts to the medium pressure natural gas line serving the J.G. Boswell Company agricultural processing facility. HST construction would eliminate this medium pressure natural gas pipeline and require rerouting and redesign of the gas delivery system to the facility.

BO049-70

4. 3" DIAMETER MEDIUM PRESSURE NATURAL GAS LINE INTO JGB WEST PROCESSING SITE.

The revised DEIR/DEIS is deficient in addressing impacts to the medium pressure natural gas line serving the J.G. Boswell Company agricultural processing facility west of the BNSF Alternative. HST construction may eliminate this medium pressure natural gas line and require rerouting and redesign of the gas delivery system to the facility.

BO049-71

5. TELEPHONE COMPANY MAIN FIBER OPTIC CABLE INTO CORCORAN.

The revised DEIR/DEIS is deficient in failure to address the telephone company main fiber optic cable access point serving the community and the J.G. Boswell Company agricultural

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processing facility. HST construction may impact the fiber optic cable affecting the entire community and the J.G. Boswell Company agricultural processing facility.

BO049-72

6. FAILURE TO ADDRESS IMPACTS/POTENTIAL IMPACTS TO THE JGB MAIN FIBER OPTIC COMMUNICATION CABLE BETWEEN WEST AND EAST SITES.

The revised DEIR/DEIS is deficient in addressing the J.G. Boswell fiber optic cable access point between the East and West agricultural processing sites. Maintaining continuous communication is critical to operations and cannot be understated.

BO049-73

7. BLOCKS TRAFFIC PATTERN TO AND COVERS OIL MILL WHOLE SEED TANKS AND TRUCK UNLOADING PITS.

The BNSF Alternative will remove the oil mill whole seed tanks and truck unloading pits from the vegetable oil refining process, thereby effectively shutting down the plant when analyzed individually or in conjunction with items 8, 9, 10, 11, 12, 14, 16, 18, and 19. The vegetable oil processing facility is a federal Title V permitted major source facility. The revised DEIR/DEIS fails to analyze the permitting burdens associated with a modification of this significance from both a regulatory and cost basis. The removal of the oil mill whole seed tanks and truck unloading pits from the vegetable oil refining facility results in an adverse and significant impact that cannot be overstated. The replacement, redesign, and relocation of the vegetable oil refinery would be required at great cost and at a great impact to neighboring farming operations and to the developing bio diesel industry in the San Joaquin Valley.

BO049-74

8. COVERS EXISTING OIL MILL BUILDING CONTAINING DECORTICATER, EXPELLER AND LINT REMOVAL ROOMS.

The BNSF Alternative will remove the oil mill decorticating, expeller, and lint removal processes from the vegetable oil refining process, thereby effectively shutting down the plant when analyzed individually or in conjunction with items 7, 9, 10, 11, 12, 14, 16, 18, and 19. The vegetable oil processing facility is a federal Title V permitted major source facility. The revised DEIR/DEIS fails to analyze the permitting burdens associated with a modification of this significance from both a regulatory and cost basis. The removal of the decorticating, expeller, and lint removal processes from the vegetable oil refining facility results in an adverse and significant (NEPA/CEQA) impact that cannot be overstated. The replacement, redesign, and relocation of the vegetable oil refinery would be required at great cost and at a great impact to neighboring farming operations and to the developing bio diesel industry in the San Joaquin Valley.

BO049-75

9. COVERS PARTS OF COTTONSEED SUPPLY (INPUT) SYSTEM OF OIL MILL.

The BNSF Alternative will remove or adversely affect parts of the cottonseed input system from the vegetable oil refining process, thereby effectively shutting down the plant when analyzed in conjunction with items 7, 8, 10, 11, 12, 14, 16, 18, and 19. The vegetable oil processing facility is a federal Title V permitted major source facility. The revised DEIR/DEIS fails to analyze the permitting burdens associated with a modification of this significance from both a regulatory and cost basis. The removal of the cottonseed input system, including impacts to air pollution control devices, from the vegetable oil refining facility results in an adverse and significant impact that cannot be overstated. The replacement, redesign, and relocation of the vegetable oil refinery would

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BO049-75 be required at great cost and at a great impact to neighboring farming operations and to the developing bio diesel industry in the San Joaquin Valley.

BO049-76 10. REMOVES COTTONSEED STORAGE HOUSE #6.

The BNSF Alternative may impact cottonseed storage house #6 from the vegetable oil refining process, thereby effectively shutting down the plant when analyzed in conjunction with items 7, 8, 9, 11, 12, 14, 16, 18, and 19. The vegetable oil processing facility is a federal Title V permitted major source facility. The revised DEIR/DEIS fails to analyze the permitting burdens associated with a modification of this significance from both a regulatory and cost basis. The removal of cottonseed storage house #6 from the vegetable oil refining facility is an adverse and significant impact that cannot be overstated. The replacement, redesign, and relocation of the vegetable oil refinery would be required at great cost and at a great impact to neighboring farming operations and to the developing bio diesel industry in the San Joaquin Valley. Furthermore there is no assurance that the facility could be relocated or that the permits for a relocated facility could be obtained.

BO049-77 11. THE BNSF ALTERNATIVE BLOCKS AND PREVENTS THE USE OF TWO RAIL SPURS OFF OF THE BNSF RAIL ROAD INTO THE WEST SITE.

The BNSF Alternative will remove the use of two rail spurs into the West Site. When analyzed in conjunction with items 7, 8, 9, 10, 12, 14, 16, 18, and 19 this impact is adverse and significant. The vegetable oil processing facility is a federal Title V permitted major source facility. The removal of two rail spurs into the West Site from the vegetable oil refining facility and commodity operations is an adverse and significant impact that cannot be overstated. It is also an adverse and significant impact that is not recognized in the revised DEIR/DEIS and for which no mitigation is offered. The replacement, redesign, and relocation (if possible) of the vegetable oil refinery would be required at great cost and at a great impact to neighboring farming operations and to the developing bio diesel industry in the San Joaquin Valley.

BO049-78 12. THE BNSF ALTERNATIVE COVERS THE MAIN SURFACE WATER COLLECTION SUMP, PUMP STATION AND OUTFALL LINE FOR THE OIL MILL PAVED AREAS.

The revised DEIR/DEIS is deficient in addressing the stormwater regulatory impacts for impacted industrial sites, the drainage of water to the surface water drainage system. This modification will necessitate the redesign of the grading to accommodate the drainage. When analyzed in conjunction with impacts 7, 8, 9, 10, 11, 14, 16, 18, and 19 this impact is adverse and significant to the ability of the vegetable oil processing mill's ability to continue operation.

BO049-79 13. THE BNSF ALTERNATIVE ENCROACHES OVER, OR COVERS, THE SOUTH "EXCESS EQUIPMENT" STORAGE YARD.

The revised DEIR/DEIS is deficient in addressing the impacts to J.G. Boswell Company's agricultural processing facilities. The BNSF Alternative will eliminate the equipment storage yard at the south end of the west processing site necessitating the relocation and reconstruction of the facility. This is an adverse and significant impact to the security and safety of the facility affecting the entire traffic flow for the facility. This significant adverse impact is not disclosed and is unmitigated.

BO049-80 14. THE BNSF ALTERNATIVE ENCROACHES ON, OR COVERS THE "FINISHED OIL" RAIL CAR LOAD OUT FACILITIES.

The revised DEIR/DEIS is deficient in addressing the "finished oil" rail car load out facilities. The BNSF Alternative will eliminate the ability of the oil mill to load out vegetable oil by rail. When analyzed in conjunction with impacts 7, 8, 9, 10, 11, 12, 14, 16, 18, and 19 this impact is adverse and significant to the ability of the vegetable oil processing mill's ability to continue operation.

BO049-81 15. THE BNSF ALTERNATIVE ENCROACHES ON AND COVERS A 300 HP IRRIGATION WELL AT THE SOUTH END OF THE WEST SITE.

The revised DEIR/DEIS is deficient in addressing water resource impacts; the BNSF Alternative will eliminate an existing 300 hp deep well supplying irrigation water to the site. Due to the need for developed water resources, and the cost and environmental impacts associated with the development of a new well, this is an adverse and significant impact which is not disclosed or mitigated.

BO049-82 16. SOLVENT STORAGE.

The revised DEIR/DEIS recognizes that the vegetable oil refinery is a solvent extraction process and that a solvent extraction process is commonly used in the vegetable oil extraction industry throughout the world. The solvent utilized in the process is stored on site. The BNSF Alignment would encroach on the storage sites shown under key 16 on the map and would require the removal, relocation, and/or taking of these facilities. The alignment's impacts on this facility, when analyzed in conjunction with impacts 7, 8, 9, 10, 11, 12, 14, 18, and 19 is adverse and significant to the ability of the vegetable oil processing mill's ability to continue operation.

BO049-83 17. CLOSURE OF SANTE FE AVENUE.

The revised DEIR/DEIS is deficient because there is no detailed site specific analysis of the environmental impacts associated with the closure of Sante Fe Avenue. In essence, the Sante Fe Avenue closure will restrict movement of heavy duty diesel trucks and other vehicles transporting commodities from the field to the facilities located east of the BNSF Alternative. From J.G. Boswell Company's operational perspective the closure of Sante Fe Avenue may effectively bar field commodities from being delivered via Sante Fe Avenue to the facilities east of the BNSF Alternative from the field and effectively results in the East industrial site being landlocked.

BO049-84 18. ELEVATED EXPOSURE LEVELS OF NOISE AND VIBRATION TO EAST TOWNSITE.

The revised DEIR/DEIS is deficient in analyzing the noise and vibration impacts to J.G. Boswell Company's agricultural processing facilities. The noise impacts to employees at industrial operations is deficient. The NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.4.8 and 3.4.9 are deficient due the absence of analyzing the site specific effects of noise and vibration on the J.G. Boswell Company's agricultural processing facilities, including structures and employees. Section 3.4.8 states that "an increase in noise level is considered highly annoying by the general population [and] it would be considered a severe impact under FRA criteria. Based on FRA noise criteria, the magnitude of the noise increase from the HST

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BO049-84

Project would result in impacts with substantial intensity. The range of sensitive receptors severely impacted at full system operations is from 1,945 to 5,069 depending on the combination of alternative alignments selected to provide a single alignment from Fresno to Bakersfield."

J.G. Boswell Company disagrees with the noise and vibration analysis performed for Alternative C1. Additional site specific noise and vibration studies are recommended to be conducted analyzing the short and long term impacts to existing structures including noise level exposure to employees at the J.G. Boswell Company from the Alternative C1 Alignment. The noise impacts on processing employees and office personnel have not been studied and should be. The additive noise effect of both HST operation and that of the existing rail road in instantaneous interruptions and the psychological effects of such frequent interruptions must be studied. This must be analyzed further to understand the additional mitigation required, or conversely to determine if such mitigation is even possible. The alignment's impacts on this facility, when analyzed in conjunction with items 7, 8, 9, 10, 11, 12, 14, 16 and 19 is adverse and significant to the ability of the vegetable oil processing mill's ability to continue operation.

BO049-85

19. ELEVATED EXPOSURE LEVELS OF NOISE AND VIBRATION TO WEST TOWNSITE

The revised DEIR/DEIS is deficient in analyzing the noise and vibration impacts to J.G. Boswell Company's agricultural processing facilities. The noise impacts to employees at industrial operations is deficient. The NEPA Impacts Summary and CEQA Significance Conclusions described in Sections 3.4.8 and 3.4.9 are deficient due the absence of analyzing the site specific effects of noise and vibration on the J.G. Boswell Company's agricultural processing facilities, including structures and employees. Section 3.4.8 states that "an increase in noise level is considered highly annoying by the general population [and] it would be considered a severe impact under FRA criteria. Based on FRA noise criteria, the magnitude of the noise increase from the HST Project would result in impacts with substantial intensity. The range of sensitive receptors severely impacted at full system operations is from 1,945 to 5,069 depending on the combination of alternative alignments selected to provide a single alignment from Fresno to Bakersfield."

BO049-86

J.G. Boswell Company disagrees with the noise and vibration analysis performed for Alternative C1. Additional site specific noise and vibration studies are recommended to be conducted analyzing the short and long term impacts to existing structures including noise level exposure to employees at the J.G. Boswell Company from the Alternative C1 Alignment. The noise impacts on processing employees and office personnel have not been studied and should be. The additive noise effect of both HST operation and that of the existing rail road in instantaneous interruptions and the psychological effects of such frequent interruptions must be studied. This must be analyzed further to understand the additional mitigation required, or conversely to determine if such mitigation is even possible. The alignment's impacts on this facility, when analyzed in conjunction with items 7, 8, 9, 10, 11, 12, 14, 16, and 18 is adverse and significant to the ability of the vegetable oil processing mill's ability to continue operation.

BO049-87

V. THE BNSF ALIGNMENT WILL CAUSE NEGATIVE IMPACTS TO A PROPOSED SOLAR FARM AT THE NEVADA AVENUE CROSSING BECAUSE THE REVISED DEIR/DEIS PROPOSES TO RE-ALIGN NEVADA AVENUE OVER A PORTION OF THE PROPOSED SOLAR FARM.

As stated in the previously submitted comments, the HST Project would use electric multiple unit (EMUs) trains, with the power distributed through the overhead contact system. The revised DEIR/DEIS discusses in 3.6, Public Utilities and Energy, that the State of California "projected deficits indicate the need for additional generation capacity." The revised DEIR/DEIS further states that the HST will utilize electricity derived from renewable sources, including solar.

BO049-88

Volume III Section C – Roadway and Grade Separation Plans Part 1 of 2 identifies impacts to a projected solar generation site location at Highway 43 and Nevada Avenue. J.G. Boswell staff referenced alignment C1 grade separation layout drawings, 15% design submission to ascertain the impacts of the proposed Nevada Avenue overcrossing on the proposed solar facility. J.G. Boswell Company staff again created a rendition of the site which is attached displaying the impact to the solar site. The crossing will create the necessity to modify the proposed solar facility's layout and design and will result in decreased area for the solar panels. The Authority needs to reconsider the design and placement of the Nevada Avenue realignment, in particular placement of the facilities to the South of the existing Nevada Avenue alignment as feasible mitigation for impacts to the solar site under the proposed realignment of Nevada Avenue. To date no response has been provided regarding this important solar electricity generation facility

In closing, again we must state, due to lack of a legally adequate time for review and comment on the revised DEIR/DEIS, J.G. Boswell Company reserves the right to supplement these comments after October 19, 2012. Further, the High Speed Rail Authority is put on notice that both the C1 and C3 route alternatives will result in substantial harm to the community, the Company's employees, and the economy of the local region. The potential job loss from impacts to J.G. Boswell facilities alone could be in the range of 40 to 50 jobs, and the potential costs to the California High Speed Rail Authority is within the range of $100,000,000 to $150,000,000.

Very truly yours,

GRISWOLD, LaSALLE, COBB,
DOWD & GIN, L.L.P.

By: _____
RAYMOND L. CARLSON

cc: Federal Railroad Authority (via overnight delivery) (w/encl.)
Dennis Tristao (w/encl.)

ENCLOSURES
1. Drawing "Proposed High Speed Rail Elevated Alternative C-1 Conflicts and Concerns" dated 10/7/12
2. Drawing "Proposed High Speed Rail at Grade Alternative C-3 Conflicts and Concerns" dated 10/07/12

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3. Tatum, Jeremy B., Physics, Physiology and Psychology, University of Victoria, Victoria, BC Canada, (1996)
4. Skarback, Eric; "Noise Measurements and Rail Traffic Development: A Swedish Case Study", Environmental Practice 9 (2) (June 2007)
5. List of Preparers

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BO049-1

Refer to Standard Response FB-Response-GENERAL-01, FB-Response-GENERAL-02, FB-Response-GENERAL-20.

BO049-2

Refer to Standard Response FB-Response-GENERAL-07.

BO049-3

Refer to Standard Response FB-Response-GENERAL-01, FB-Response-GENERAL-21.

J.G. Boswell comments attached and submitted on the Draft EIR/EIS are included in Volume IV as Submission 1316.

BO049-4

Refer to Standard Response FB-Response-AVR-01, FB-Response-GENERAL-01, FB-Response-GENERAL-07, FB-Response-N&V-03.

State and Federal Occupational Safety and Health Administration (OSHA) noise standards have a threshold that requires the wearing of hearing protection when employees are exposed to an 8-hour time-weighted average of 85 decibels or greater. The Corcoran Elevated Alternative will be mitigated through the City of Corcoran, adjacent to many of the commercial and industrial land uses in the City. As a result of this mitigation, over 90% of the severely impacted sensitive receivers will be benefitted by the proposed noise barrier. The remaining sensitive receivers that would not benefit from the noise barrier would receive mitigation in the form of acoustic insulation at the individual residences. Behind the noise barrier, the peak noise hour for HST operations would be about 63 dB, which is 20 dB below the OSHA threshold. Therefore, the State and Federal OSHA noise standards would be met.

The Federal Transit Administration (FTA) guidelines list three specific land use categories that are considered to be noise sensitive:

- Category 1: Tracts of land where quiet is an essential element in their intended purpose. This category includes lands set aside for serenity and quiet and such land uses as outdoor amphitheaters and concert pavilions as well as National Historic Landmarks with significant outdoor use.
- Category 2: Residences and buildings where people normally sleep. This category includes homes and hospitals, where nighttime sensitivity to noise is assumed to be the utmost importance.
- Category 3: Institutional land uses with primarily daytime and evening use. This category includes schools, libraries, and churches, where it is important to avoid interference with such activities as speech, meditation, and concentration. Buildings with interior spaces where quiet is important, such as medical offices, conference rooms, recording studios, and concert halls fall into this category as well as places for meditation or study associated with cemeteries, monuments, and museums. Certain historical sites, parks, and recreational facilities are also included.

The noise impact criteria and descriptors depend on land use, and do not apply to most commercial or industrial uses because, in general, the activities within these buildings are compatible with higher noise levels (FTA 2006).

The noise impact criteria used by the FRA and FTA are ambient-based; the increase in future noise (future noise levels with the project compared to existing noise levels) is assessed rather than the noise caused by each passing train. The criteria specify a comparison of future project noise with existing levels because comparison with an existing condition is more accurate (FRA 2005a). Figure 3.4-3 in Section 3.4, Noise and Vibration, of the Final EIR/EIS shows the FRA noise impact criteria for human annoyance. Depending on the magnitude of the cumulative noise increases, FTA and FRA categorize impacts as (1) no impact; (2) moderate impact; or (3) severe impact. Severe impact is where a significant percentage of people would be highly annoyed by a project's noise. Moderate impact is where the change in cumulative noise level would be noticeable to most people, but may not be sufficient to generate strong, adverse reactions. The impacts were determined for Category 1, 2, and 3 land use types, and mitigation measures were proposed to mitigate those impacts.

Along the elevated portions of the alignment, vibration levels from the HST project are expected to be at least 10 to 15 decibels (dB) below the vibration levels currently generated by the existing BNSF Railway freight operations. Structures not currently impacted by vibration from existing BNSF Railway freight operations would not be impacted by vibration from HST operations.

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BO049-5

Refer to Standard Response FB-Response-N&V-03, FB-Response-N&V-05.

The applicable noise standards are the FRA noise standards because they directly apply to this type of project. These noise standards use dBA.

BO049-6

Refer to Standard Response FB-Response-N&V-03.

The FRA noise standards are the applicable noise standards as they apply directly to this type of project.

BO049-7

FRA methodology does not consider industrial land uses to be noise-sensitive areas as activities are generally compatible with higher noise levels (FTA 2006).

BO049-8

FRA methodology does not consider industrial land uses to be noise-sensitive areas as activities are generally compatible with higher noise levels (FTA 2006).

BO049-9

Refer to Standard Response FB-Response-N&V-03, FB-Response-N&V-05, FB-Response-SO-01, FB-Response-SO-02, FB-Response-SO-03.

Please see Volume I, Section 3.12 Impact SO #10 for information on the impacts on commercial and industrial businesses in communities. For information on the property acquisition and compensation process, see Volume II, Technical Appendix 3.12-A. At this stage of project design, identifying the individual circumstances surrounding the acquisition of land on each parcel is not possible. Instead of specific individual impacts, the EIR/EIS provides an overall analysis of commercial, industrial, and residential displacements and the economic effects of such displacements to the communities affected by the project. This provides the general public and decision makers with an understanding of the nature and magnitude of the impacts. The final full and partial

BO049-9

parcel acquisition decisions will ultimately be determined on a case-by-case basis during the land acquisition phase of the project, see Appendix 3.12-A for more information on the property acquisition and compensation procedures.

BO049-10

Refer to Standard Response FB-Response-N&V-03.

As previously described, industrial land uses are not considered to be noise-sensitive areas by FRA methodology.

BO049-11

Refer to Standard Response FB-Response-GENERAL-05, FB-Response-SO-04.

Please see the EIR/EIS, Volume I, Section 3.12, Impacts SO #6 and SO #9, and Mitigation Measure SO-1 for information about the impact on the community of Corcoran. For information about the impacts on communities and on the potential for physical deterioration, see Volume I, Section 3.12, Impact SO #16. Also see Volume I, Section 3.12, Mitigation Measure SO-5.

BO049-12

Refer to Standard Response FB-Response-SO-01, FB-Response-SO-03.

The Corcoran Elevated alternative would travel along the existing BNSF railway corridor through the J.G. Boswell property where the California Department of Food and Agriculture (CDFA) sampling station is located. The Corcoran Elevated alternative would be located west of Santa Fe Avenue, but it is not anticipated that the sampling station, seed cleaning, or grain storage facilities would be permanently displaced. However, the final full and partial parcel acquisition details will ultimately be determined on a case-by-case basis during the land acquisition phase of the project; see Appendix 3.12-A for more information on the property acquisition and compensation procedures. The Authority will consult with the respective parties before land acquisition to assess potential opportunities to reconfigure land use or buildings, and relocate facilities, as necessary, to minimize the disruption of facility activities and services. Mitigation

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BO049-12

Measure SO-3, which is entitled "implement measures to reduce impacts associated with the relocation of important facilities," will be effective in minimizing the impacts of the project by completing new facilities before necessary relocations and by involving affected facilities in the process of identifying new locations for their operations.

Some property at the J.G. Boswell facility may be required to accommodate the construction of the HST, but would not result in the displacement of the entire facility or limit the operating capacity of the site. For this reason, the EIR/EIS does not consider the J.G. Boswell facility and the employees to be fully displaced. The EIR/EIS is not inaccurate; it provides an overall analysis of commercial, industrial, and residential displacements and the economic effects of such displacements to the communities affected by the project. This provides the general public and decision makers with an understanding of the nature and magnitude of the impacts.

BO049-13

Throughout the Fresno to Bakersfield Section, the Authority would strive to schedule construction during periods that minimize interference with adjacent businesses. If an alternative is selected for the project adjacent to J.G. Boswell facilities, the Authority would work with J.G. Boswell during preparation of bid documents to identify construction schedule constraints to be included in those bid documents.

The Authority does not currently have air rights for the space beneath elevated structures. Those rights can only be provided by the California Legislature. The Authoriity would seek to obtain air rights for access beneath HST structures.

BO049-14

Refer to Standard Response FB-Response-GENERAL-01, FB-Response-SO-01.

Again, please see the EIR/EIS, Volume I, Section 3.12, Impact SO #10 for information about the impacts on commercial and industrial businesses in communities. For information on the property acquisition and compensation process, see Volume II, Appendix 3.12-A. Individual acquisition and access issues will be determined during the property acquisition process. Also see the Community Impact Assessment Technical

BO049-14

Report, Appendix B, for a discussion of the J.G. Boswell Company in the community baseline data.

BO049-15

Refer to Standard Response FB-Response-SO-03.

EIR/EIS Sections 3.12.4 and 3.12.5 Affected Environment presents a summary of county and community demographics, housing, economic conditions, community characteristics, and environmental justice populations in the four-county region to provide context for the Project impacts. The source data from the California Department of Finance and U.S. Census Bureau include the institutionalized population in the total population numbers, and the potential for this to skew the data is discussed in the text each time the data are presented. The institutionalized population is not included in the data for the total household population count. This is appropriate because the community impacts, detailed in Section 3.12.8 Environmental Consequences, occur as a result of residential, business and community facility displacement along the HST right-of-way, and do not affect the inmate population. Therefore, the EIR/EIS is not deficient; it provides an overall analysis of commercial, industrial, and residential displacements and the economic effects of such displacements to the communities affected by the project. This provides the general public and decision makers with an understanding of the nature and magnitude of the impacts.

BO049-16

Refer to Standard Response FB-Response-GENERAL-07, FB-Response-SO-03.

For information on the impacts on commercial and industrial businesses in communities see EIR/EIS Volume I Section 3.12, Impact SO #10. For information on the property acquisition and compensation process see Volume II Technical Appendix 3.12-A. Individual acquisition (both full and partial acquisitions) and access issues will be determined during the property acquisition process after refinement of the selected alternative during final engineering.

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Refer to Standard Response FB-Response-SO-01.

Some property at the J.G. Boswell facility may be required to accommodate the construction of the HST, but would not result in the displacement of the entire facility or limit the operating capacity of the site. For this reason, the EIR/EIS does not consider the J.G. Boswell facility and the employees to be fully displaced. As previously discussed, the EIR/EIS is not inaccurate; it provides an overall analysis of commercial, industrial, and residential displacements and the economic effects of such displacements to the communities affected by the project. This provides the general public and decision makers with an understanding of the nature and magnitude of the impacts.

BO049-18

Refer to Standard Response FB-Response-PU&E-03.

There are many utilities within or crossing the study area for the proposed HST and associated facilities. The proposed project would avoid, protect or reroute potentially affected existing public utility infrastructure. The Authority would work with utility owners during final engineering design and construction of the project to relocate utilities or protect them in place. Where overhead distribution lines cross the HST alignment, the Authority and the utility owner may determine that it is best to place the line underground. In this case, the distribution line would be placed in a conduit so that future maintenance of the line could be accomplished outside the HST right-of-way. Where existing underground pipelines cross the HST alignment, the utilities would be placed in a protective casing so that future maintenance could be accomplished outside of the HST right-of-way. The project construction contractor would coordinate schedules for utility relocations and protection-in-place with the utility owner to ensure the project would not result in prolonged disruption of services. Refer to Section 3.6.5.

Based on the current level of design, the overhead 12-kV electrical service transmission line potentially affected along the east side of Santa Fe Avenue would, upon agreement between the Authority and the Pacific Gas and Electric Company, be placed underground and would be placed in a conduit at the expense of the Authority. The

BO049-18

Authority's construction contractor will coordinate schedules for utility relocations and protection-in-place with the utility owner to ensure the project would minimize or eliminate the potential for disruption of service to affected users and the community.

BO049-19

Refer to Standard Response FB-Response-PU&E-03.

Again, there are many utilities within or crossing the study area for the proposed HST and associated facilities. The proposed project would avoid, protect or reroute potentially affected existing public utility infrastructure. The Authority would work with utility owners during final engineering design and construction of the project to relocate utilities or protect them in place. Where overhead distribution lines cross the HST alignment, the Authority and the utility owner may determine that it is best to place the line underground. In this case, the distribution line would be placed in a conduit so that future maintenance of the line could be accomplished outside the HST right-of-way. Where existing underground pipelines cross the HST alignment, the utilities would be placed in a protective casing so that future maintenance could be accomplished outside of the HST right-of-way. The project construction contractor would coordinate schedules for utility relocations and protection-in-place with the utility owner to ensure the project would not result in prolonged disruption of services. Please refer to Section 3.6.5.

Based on the current level of design, the overhead 12-kV electrical service transmission line potentially affected along the north side of Sherman Avenue Extended would, upon agreement between the Authority and the Pacific Gas and Electric Company, be placed underground and within a conduit at the expense of the Authority. The Authority's construction contractor will coordinate schedules for utility relocations and protection-in-place with the service provider to ensure the project will either minimize or eliminate the potential for disruption of service to affected users and the community.

BO049-20

Refer to Standard Response FB-Response-PU&E-03.

There are many utilities within or crossing the study area for the proposed HST and associated facilities. The proposed project would avoid, protect or reroute potentially

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affected existing public utility infrastructure. The Authority would work with utility owners during final engineering design and construction of the project to relocate utilities or protect them in place. Where overhead distribution lines cross the HST alignment, the Authority and the utility owner may determine that it is best to place the line underground. In this case, the distribution line would be placed in a conduit so that future maintenance of the line could be accomplished outside the HST right-of-way. Where existing underground pipelines cross the HST alignment, the utilities would be placed in a protective casing so that future maintenance could be accomplished outside of the HST right-of-way. The project construction contractor would coordinate schedules for utility relocations and protection-in-place with the utility owner to ensure the project would not result in prolonged disruption of services. Refer to Section 3.6.5.

Based on the current level of design, the overhead 12-kV electrical service transmission line potentially affected along the west side of Pickerell Avenue will, upon agreement between the Authority and the Pacific Gas and Electric Company, be placed underground and within a conduit at the expense of the Authority. The Authority's construction contractor will coordinate schedules for utility relocations and protection-in-place with the service provider to ensure the project will either minimize or eliminate the potential for disruption of service to affected users and the community.

BO049-21

Refer to Standard Response FB-Response-PU&E-03.

There are many utilities within or crossing the study area for the proposed HST and associated facilities. The proposed project would avoid, protect or reroute potentially affected existing public utility infrastructure. The Authority would work with utility owners during final engineering design and construction of the project to relocate utilities or protect them in place. Where communication cables cross the HST alignment, the Authority and the utility owner may determine that it is best to place the line underground. In this case, the communication cables would be placed in a conduit so that future maintenance of the line could be accomplished outside the HST right-of-way. Where existing fiber optic lines cross the HST alignment, the utilities would be placed in a protective casing so that future maintenance could be accomplished outside of the HST right-of-way. The project construction contractor would coordinate schedules for

BO049-21

utility relocations and protection-in-place with the utility owner to ensure the project would not result in prolonged disruption of services. Refer to Section 3.6.5.

Based on the current level of design, the pull/splice box serving the J.G. Boswell main fiber optic communication cable between its West and East agricultural processing facilities will, upon agreement between the Authority and the public service provider, be replaced and rerouted in a conduit at the expense of the Authority. The Authority's construction contractor will coordinate schedules for utility relocation with the service provider to ensure the project will either minimize or eliminate the potential for disruption of service to affected users.

BO049-22

Refer to Standard Response FB-Response-SO-01, FB-Response-SO-03.

The Corcoran Elevated alternative would travel along the existing BNSF railway corridor through the J.G. Boswell property where the California Department of Food and Agriculture (CDFA) sampling station is located. The Corcoran Elevated alternative would be located west of Santa Fe Avenue, but it is not anticipated that the sampling station, seed cleaning or grain storage facilities would be permanently displaced. However, the final full and partial parcel acquisition details will ultimately be determined on a case-by-case basis during the land acquisition phase of the project, see Appendix 3.12-A for more information on the property acquisition and compensation procedures. The Authority will consult with the respective parties before land acquisition to assess potential opportunities to reconfigure land use or buildings, and relocate facilities, as necessary, to minimize the disruption of facility activities and services. Mitigation Measure SO-3: Implement measures to reduce impacts associated with the relocation of important facilities, will be effective in minimizing the impacts of the project by completing new facilities before necessary relocations and by involving affected facilities in the process of identifying new locations for their operations.

Some property at the J.G. Boswell facility may be required to accommodate the construction of the HST, but would not result in the displacement of the entire facility or limit the operating capacity of the site. For this reason, the EIR/EIS does not consider the J.G. Boswell facility and the employees to be fully displaced. The EIR/EIS is not

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inaccurate; it provides an overall analysis of commercial, industrial, and residential displacements and the economic effects of such displacements to the communities affected by the project. This provides the general public and decision makers with an understanding of the nature and magnitude of the impacts.

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Refer to Standard Response FB-Response-SO-01, FB-Response-TR-01.

The construction of the Corcoran Elevated Alternative would require the relocation of Santa Fe Avenue to the east. The relocation will require the acquisition of additional right-of-way, currently used as internal vehicle and truck parking and traffic flow for the grading station.

The elevated structure proposed at this location may help reduce impacts to parking and circulation at this property. However, the shifting of Santa Fe Avenue may still affect the site's internal operations. If the project results in the acquisition or direct interference with the existing operations at this property, additional refinement during project design may allow avoidance or further minimization of adverse effects. Unavoidable impacts may be subject to damages. These would be determined during final design and right-of-way phases of the project.

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Refer to Standard Response FB-Response-HWR-02, FB-Response-SO-01.

The permanent right-of-way for the Corcoran Elevated or BNSF Alternative would include a portion of the J.G. Boswell property adjacent to the existing freight track and/or Santa Fe Avenue. Any of J.G Boswell's surface runoff gutters and swales located within the project right-of-way would need to be relocated. The Authority will fairly compensate land owners during the right-of-way acquisition process for relocation of existing drainage infrastructure. If relocated drainage systems would need to be re-permitted, compensation would also include regulatory costs. It is unlikely that the industrial site's grading would need to be completely redesigned because current on-site drainage patterns in areas outside of the HST right-of-way would not be impacted. J.G. Boswell's runoff would be pickup at the edge of the HST right-of-way close to where it now drains

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to and carried in the same direction and discharged to a similar location.

Please also note that further refinement has been made to the alignment alternatives since issuance of the DEIR/DEIS, as described in the Revised Draft EIR/Supplemental Draft EIS. The BNSF and Corcoran Elevated alternatives will be on an aerial structure in southeast Corcoran in the vicinity of the Sherman Avenue crossing. Drainage systems within portions of elevated track would collect and drain stormwater to the ground through downspouts at the columns located every 100 to 120 feet along the alignment. Drainage from the downspouts would typically infiltrate within the HST rights-of-way or be conveyed parallel to the overhead track to a nearby stormwater collection system. Runoff from the project would not be discharged directly to private property. Santa Fe Avenue would be realigned under the Corcoran Elevated Alternative and the existing freight rail tracks for the Boswell Spur would be realigned under the BNSF Alternative. Drainage management for Santa Fe Avenue or the freight rail rights-of-way would meet or exceed current practices. Detailed grading and drainage plans will be prepared by the design-build contractor based on the design standards described in Standard Response FB-Response-HWR-02. In addition, engineers participating in the right-of-way acquisition process will ensure that site-specific drainage impacts to neighboring properties are not created.

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Refer to Standard Response FB-Response-HWR-02, FB-Response-SO-01.

The permanent right-of-way for the Corcoran Elevated or BNSF Alternative would include a portion of the J.G. Boswell property adjacent to the existing freight track and/or Santa Fe Avenue. Any of J.G. Boswell's surface runoff sumps or pump stations located within the project right-of-way would need to be relocated. The Authority will fairly compensate land owners during the right-of-way acquisition process for relocation of existing drainage infrastructure. If relocated drainage systems would need to be re-permitted, compensation would also include regulatory costs.

Further refinement has been made to the alignment alternatives since issuance of the DEIR/DEIS, as described in the Revised Draft EIR/Supplemental Draft EIS. The BNSF and Corcoran Elevated alternatives will be on an aerial structure in southeast Corcoran

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in the vicinity of the Sherman Avenue crossing. Drainage systems within portions of elevated track would collect and drain stormwater to the ground through downspouts at the columns located every 100 to 120 feet along the alignment. Drainage from the downspouts would typically infiltrate within the HST rights-of-way or be conveyed parallel to the overhead track to a nearby stormwater collection system. Runoff from the project would not be discharged directly to private property. Santa Fe Avenue would be realigned under the Corcoran Elevated Alternative and the existing freight rail tracks for the Boswell Spur would be realigned under the BNSF Alternative. Drainage management for Santa Fe Avenue or the freight rail rights-of-way would meet or exceed current practices. Detailed grading and drainage plans will be prepared by the design-build contractor based on the design standards described in Standard Response FB-Response-HWR-02. In addition, engineers participating in the right-of-way acquisition process will ensure that site-specific drainage impacts to neighboring properties are not created.

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Refer to Standard Response FB-Response-HWR-02, FB-Response-SO-01.

The permanent right-of-way for the Corcoran Elevated or BNSF Alternative would include a portion of the Boswell property adjacent to the existing freight track and/or Santa Fe Avenue. If the Boswell runoff pump outflow line is located within or discharges in the project footprint it would need to be relocated. The Authority will fairly compensate land owners during the right-of-way acquisition process for relocation of existing drainage infrastructure. If relocated drainage systems would need to be re-permitted, compensation would also include regulatory costs. The intent is to put the line back into service so that it provides Boswell with the same utility as the existing line.

As previously discussed, further refinement has been made to the alignment alternatives since issuance of the DEIR/DEIS, as described in the Revised DEIR/Supplemental DEIS. The BNSF and Corcoran Elevated alternatives would be on an aerial structure in southeast Corcoran in the vicinity of the Sherman Avenue crossing. Drainage systems within portions of elevated track would collect and drain stormwater to the ground through downspouts at the columns located every 100 to 120 feet along the alignment. Drainage from the downspouts would typically infiltrate within the HST rights-of-way or

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be conveyed parallel to the overhead track to a nearby stormwater collection system. Runoff from the project would not be discharged directly to private property. Santa Fe Avenue would be realigned under the Corcoran Elevated Alternative and the existing freight rail tracks for the Boswell Spur would be realigned under the BNSF Alternative. Drainage management for Santa Fe Avenue or the freight rail rights-of-way would meet or exceed current practices. Detailed grading and drainage plans will be prepared by the design-build contractor based on the design standards described in Standard Response FB-Response-HWR-02. In addition, engineers participating in the right-of-way acquisition process will ensure that site-specific drainage impacts to neighboring properties are not created.

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Refer to Standard Response FB-Response-PU&E-03.

There are many utilities within or crossing the study area for the proposed HST and associated facilities. The proposed project would avoid, protect or reroute potentially affected existing public utility infrastructure. The Authority would work with utility owners during final engineering design and construction of the project to relocate utilities or protect them in place. Where existing water pipelines cross the HST alignment, the utilities would be placed in a protective casing so that future maintenance could be accomplished outside of the HST right-of-way. The project construction contractor would coordinate schedules for utility relocations and protection-in-place with the utility owner to ensure the project would not result in prolonged disruption of services. Refer to Section 3.6.5.

Based on the current level of design, the 8-inch diameter water distribution line located on the east side of Santa Fe Avenue would, upon agreement between the Authority and the public service provider, be replaced and rerouted at the expense of the Authority. The Authority's construction contractor will coordinate schedules for its relocation to ensure the project will either minimize or eliminate the potential for disruption of service to affected users.

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Refer to Standard Response FB-Response-PU&E-03.

There are many utilities within or crossing the Study Area for the proposed HST and associated facilities. The proposed project would avoid, protect or reroute potentially affected existing public utility infrastructure. The Authority would work with utility owners during final engineering design and construction of the project to relocate utilities or protect them in place. Where overhead distribution lines cross the HST alignment, the Authority and the utility owner may determine that it is best to place the line underground. In this case, the distribution line would be placed in a conduit so that future maintenance of the line could be accomplished outside the HST right-of-way. Where existing underground pipelines cross the HST alignment, the utilities would be placed in a protective casing so that future maintenance could be accomplished outside of the HST right-of-way. The project construction contractor would coordinate schedules for utility relocations and protection-in-place with the utility owner to ensure the project would not result in prolonged disruption of services. Refer to Section 3.6.5.

Based on the current level of design, the overhead 12-kV electrical service/meter pole servicing the Boswell cotton gin #5 operation will, upon agreement between the Authority and the Pacific Gas and Electric Company, be relocated or placed underground and within a conduit at the expense of the Authority. The Authority's construction contractor will coordinate schedules for utility relocations and protection-in-place with the service provider to ensure the project will either minimize or eliminate the potential for disruption of service to affected users.

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Refer to Standard Response FB-Response-SO-01.

If the project results in the acquisition or direct interference with the existing operations at this property, additional refinement during project design may allow avoidance or further minimization of adverse effects. Unavoidable impacts may be subject to treatment or compensation. These would be determined during final design and right-of-way phases of the project.

At the location of the J.G. Boswell facility the Corcoran Elevated alternative would travel

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through the site along the existing BNSF railway corridor and require shifting Santa Fe Avenue eastward. Some property may be required to accommodate this shift; however, it would not result in the displacement of any silos or structures immediately adjacent to the road. Some modifications to the BNSF railway spurs may be required, but access to and from the J.G. Boswell facility will be maintained. Any direct loss of land or diminution in value to a property owner's parcel will be estimated by an appraiser through the property acquisition process and the owner will be fairly compensated.

Impacted businesses that rely on railroad spurs to access the BNSF railroad will be reconfigured or relocated, if necessary, to ensure continued access to the BNSF.

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Refer to Standard Response FB-Response-SO-01.

The HST Alignment will cross over Sherman Avenue, Whitley Avenue, and Brokaw Avenue on an aerial structure. Refer to Appendix A, Road Crossings, of the Final EIR/EIS for more details. This design reduces impacts with respect to the original plan at this property, when this comment was made.

The construction of the Corcoran Elevated Alternative would require the relocated of Santa Fe Avenue to the east. The relocation will require additional right-of-way, currently used as internal parking at the ranch office. The elevated structure proposed at this location may help reduce impacts to parking and circulation at this property. However, the shifting of Santa Fe Avenue may still affect the site's internal operations.

If the project results in the acquisition or direct interference with the existing operations at this property, additional refinement during project design may be necessary to further avoid or further minimize adverse effects. Unavoidable impacts may be subject to damages. This would be addressed during final design and right-of-way phases of the project.

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Refer to Standard Response FB-Response-SO-01.