



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105

DEC 19 2013

David Valenstein
Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington, D.C. 20590

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

Subject: Response to November 2013 Request for Agreement on "Checkpoint C" – Preliminary Least Environmentally Damaging Practicable Alternative and Draft Mitigation Plan for California High-Speed Rail Project Fresno to Bakersfield Section

Dear Mr. Valenstein and Mr. McLoughlin:

This letter responds to the Federal Railroad Administration and California High-Speed Rail Authority's November 27, 2013 request for EPA to provide agreement with the Preliminary Least Environmentally Damaging Practicable Alternative and Draft Mitigation Plan for the Fresno to Bakersfield Section of the California High-Speed Rail Project. EPA agrees with the preliminary LEDPA and Draft Mitigation Plan proposed in the November 2013 "Checkpoint C" package, as detailed below.

FRA is the lead federal agency for compliance with the National Environmental Policy Act and other federal laws for this project. CHSRA is serving as the joint-lead under NEPA and is the lead agency for compliance under the California Environmental Quality Act. FRA and CHSRA are coordinating with U.S. EPA and U.S. Army Corps of Engineers under the December 2010 *NEPA/ Clean Water Act Section 404/Rivers and Harbors Act Section 14 (33 U.S.C. 408) Integration Process for the California High-Speed Train Program Memorandum of Understanding (NEPA/404 MOU)*. The NEPA/404 MOU establishes "Checkpoint C" as a decision point in the early coordination process where signatory agencies agree or disagree on the preliminary Least Environmentally Damaging Practicable Alternative (as defined in the Clean Water Act 404(b)(1) Guidelines), and the Draft Mitigation Plan.

Least Environmentally Damaging Practicable Alternative

FRA and CHSRA requested agreement from EPA on the preliminary LEDPA for the portion of the Fresno to Bakersfield HSR section for which construction funding is available, which extends from the City of Fresno to 7th Standard Road in Kern County south of the City of Shafter. EPA understands that the preliminary LEDPA extending from 7th Standard Road to the City of Bakersfield will be identified at a later date.

Per the NEPA/404 MOU, EPA agrees with FRA and CHSRA's selection of the preliminary LEDPA for the north-south connection between the City of Fresno and 7th Standard Road, which includes:

- Portions of the Burlington Northern Santa Fe alignment where alternatives were not carried forward into Checkpoint C
- BNSF-Hanford East
- Corcoran Bypass
- Allensworth Bypass
- BNSF-Through Wasco-Shafter to 7th Standard Road in Kern County south of Shafter
- Kings/Tulare Regional Station East Alternative

Draft Mitigation Plan

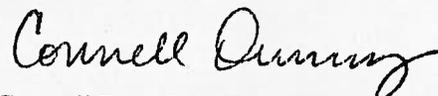
Per the NEPA/404 MOU, EPA provides agreement with FRA and CHSRA's Draft Mitigation Plan, which is a conceptual strategy that specifies resources available for the establishment and/or rehabilitation of aquatic resources. The submitted document properly describes each of the main elements of a mitigation plan. Its overview of mitigation needs, opportunities, and plausible implementation scenarios are general in context, but commensurate with preliminary project planning. EPA expects that more site-specific information will be made available prior to Clean Water Act Section 404 permitting. In the Final Mitigation Plan, more accurate information will be needed about the type, amount and condition of aquatic resources to be impacted by the preliminary LEDPA. Additionally, further information will be required on the environmental suitability of candidate compensatory mitigation sites for vernal pool reestablishment (e.g., Old River Dairy). Factors required for further evaluation include, but are not limited to:

- (1) Landscape scale connectivity between a proposed reestablishment mitigation site and other aquatic resources,
- (2) Evidence of historical occurrence of vernal pool type wetlands at a site,
- (3) Suitability of substrate at a site to sustain hydrology,
- (4) Presence of adequate buffer areas for a site,
- (5) The level of certainty that stressors remaining after site development will not constrain project performance.

EPA's goals in early coordination are to identify potential challenges early, facilitate development of robust and defensible environmental documents, and promote well-informed decision making in order to protect human health and the environment. We appreciate FRA and CHSRA's close coordination with EPA, as well as efforts to address EPA comments during the Checkpoint C process. We look forward to further coordination on the development of environmental documents, as well as continuing to partner on opportunities to enhance the environmental sustainability of the overall HSR system. EPA will ultimately review EISs for each section of the California HSR system pursuant to NEPA, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. EPA will also review CWA Section 404 permit applications for each HSR section for compliance with EPA's 404(b)(1) Guidelines (40 CFR 230.10).

If you have questions or comments please contact the NEPA lead for this project, Jen Blonn, at (415) 972-3855 (blonn.jennifer@epa.gov) or the aquatic resources lead for this project, Sarvy Mahdavi, at ((213) 244-1830 (mahdavi.sarvy@epa.gov).

Sincerely,



Connell Dunning, Transportation Team Supervisor
Environmental Review Office

CC Via Email:

Stephanie Perez, Federal Railroad Administration
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Florence Gardipee, U.S. Fish and Wildlife Service
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Bill Orme, California State Water Quality Control Board