Staff Response to Issues Raised on Merced to Fresno Section FEIR/FEIS

I. Project description

Adequate Range of Alternatives

Merced Downtown Station

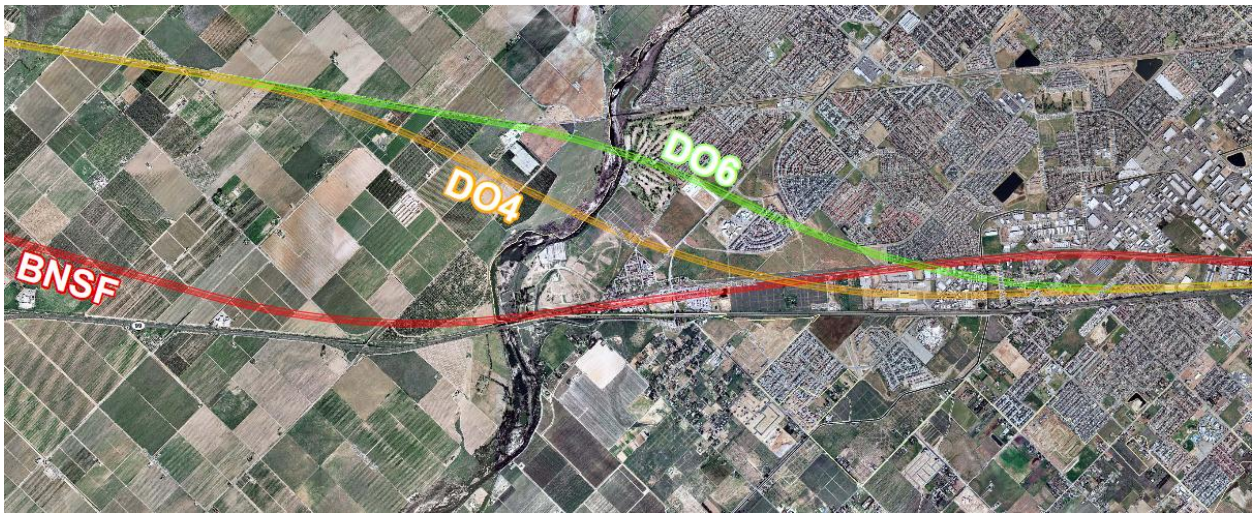
Commentor feels that the station changed location and became at-grade without adequate notification and process.

The following provides a brief history on the evolution of the Merced Station Development. During the EIR/S process, the Preliminary Alternative Analysis Board presentation was provided on April 8, 2010, which advanced 2 elevated/aerial stations at Martin Luther King and M Street, and another between R Street and O Street. Subsequent analysis showed that an at-grade station would be more satisfactory to the City and less costly.

Accordingly, during the Supplement Alternative Analysis Board presentation on May 5, 2011, the board considered and advanced for EIR/S evaluation an at-grade Station between G Street and Martin Luther King Boulevard. This station is the same that was evaluated in the DEIR/S in June 2011 released to the public contained the at-grade station (G-MLK). All notifications were conducted in accordance with legal requirements.

Range of Alternatives in Fresno south from the San Joaquin River

The commentor states that there are a few alternatives and design options that were not adequately considered before being removed from further consideration. The attached map illustrates these alignments (DO 4 and DO6).



In fact, the Preliminary Alternative Analysis presented to the board on in April 2010, considered multiple F1, F2, and F3 alignments in Fresno and A1, A2 and A3 alignment from North of the River and into North Fresno, with several Design Options (including DO4, DO5, and DO6).

This Alternative Analysis noted that with similar operational performance, the preliminary AA noted DO4 and DO6 will create much more community disruption in north of Fresno when compared to DO5, crossing several residential areas, and requiring several elevated crossings of UPRR and highway 99. The Board approved advancing DO5 (BNSF alignment) for further study.

Use AGV Technology

Comment:

- The current EIR/EIS is using old technology.
- The new technology being used around the world by high speed rail is AGV.
- The AGV technology allows trunk and branch system

Response:

- The AGV is an EMU trainset under current production by Alstom. Other manufacturers such as Siemens, Kawasaki, Hitachi, Nippon Sharyo, Talgo, Rotem, as well as the Chinese, are currently manufacturing similar high speed rail products. The EIR/S does not favor or preclude any of these trainsets, including the AGV.
- Although the AGV product brochure includes a graphic with a trunk and branch operation (i.e., operation of coupled/decoupled trainsets) the ability to operate coupled trainsets is not peculiar to the AGV; all of the current manufacturers are capable of operating coupled trainsets.
- Although all of current high speed trainsets are capable of operating in either coupled or decoupled service, the CAHSR operating scenario does not include splitting trainsets at interim locations. The Authority considered the option of splitting trainsets at interim locations at the Program level and determined that it was not a reasonable alternative for the CAHSR. This is another reason that the I-5 alternative was removed from further consideration.

II. Process

Adequacy of Notification

For publication of a Final EIR/EIS, CEQA requires that responses to comments received on the Draft EIR/EIS from public agencies be provided to those commenting agencies at least 10 days prior to certification of the document (CEQA Guidelines 15088[b]). There is no other public notice requirement under CEQA for publication of a Final EIR/EIS. Authority notification went beyond the legal minimum, by providing all members of the public with an opportunity to review the Final EIR, including various mailings and newspaper notices, and posting of the document on the web and providing hardcopies in various libraries.

All commenting agencies were provided with their responses on April 20, 2012, which is 13 days before May 3, 2012 (the date scheduled for Board consideration of the Final EIR/EIS). In addition to the CEQA notice requirement, the Authority provided public notice documents to over 12,000 members of the

public in English and Spanish, which includes everyone on the Merced to Fresno mailing list. The notice document disclosed the release of the Final EIR/EIS, the purpose and availability of the document, the board meeting time and location, and the process for project consideration and approval under CEQA and NEPA. This notice was also published in 9 local papers in the Central Valley, and posted at the Merced, Madera, and Fresno county clerk offices.

Regarding the Draft EIR, CEQA requires notice in various ways. First, notice must be sent to all those who in writing requested notice. Second, notice to the general public must be given in one of three ways: newspaper ads, physical posting around the site or mailing to property owners in and contiguous to the project footprint. The Authority did all three. Third, posting at County Clerks offices must be done. All these requirements were satisfied. Further outreach efforts were extensive – too extensive to list in this document.

Regarding specific commenters:

- Regarding the Forestiere Underground Gardens – Valery Forestiere, Rick Forestiere – Staff confirmed that the occupant of 5021 West Shaw Ave. Fresno CA 93722 (the Forestiere property) has been on the Authority's mailing list for the Merced to Fresno Project EIR/EIS since 2010. This property was added to our list in 2010 and would have been mailed the following items:
    - Invitations to public information meetings
    - Notification of the availability of the Draft EIR/EIS
- Regarding Marvin Mackin, Merced Business Owner- The physical address of his property is 1440 Martin Luther King Jr. Way. The address listed on tax assessor data is P.O. Box 2389 Merced CA. Staff confirmed that both of these addresses are on the mailing list used to provide notifications of the Draft EIR/EIS availability, and would have been sent the notifications.

- Regarding Rosanna Martinez – The physical address of this property is 1206 G Street, Fresno, CA. This property is located within both the Merced to Fresno segment and the Fresno to Bakersfield segment; it is analyzed in both EIR/EIS documents. Staff records indicate the property owner for this address was mailed notification of the availability of both the Merced to Fresno and Fresno to Bakersfield Draft EIR/EIS and joint public hearing. According to staff records, Ms. Martinez, who appears to be a tenant, did receive notices for the Fresno/Bakersfield EIR/EIS. The team is still looking into why Ms. Martinez was not mailed notification for the Merced to Fresno EIR/EIS. Staff used several other methods to reach out to tenants, property owners, and the general public as part of a comprehensive notification process, including newspaper ads in the Fresno Bee and 8 other newspapers, postings along the alignment, electronic mail blasts, and press releases.

Concern of the Wye Decision Process

Several commenters expressed that the project was piecemealed and the EIR/EIS flawed because it describes that the EIR/EIS would not be the basis for a decision on the east/west connection and wyes and does not analyze the SR 152. The Board requested that staff provide additional input on this point. The following identifies the key facts as described in the Final EIR/EIS.

First, the Final EIR/EIS does include and study the east/west connection for the high-speed train and the wyes for Avenue 21 and Avenue 24. Both the Draft EIR/EIS and Final EIR/EIS explained that based on public feedback and interest in continued investigation of an SR 152 east/west connection and wye, the

Authority was committed to studying that additional alternative, and would therefore defer a final decision on the alignment in this area until further environmental review as part of a San Jose to Merced EIR/EIS process. To be clear, the EIR/EIS does fully study 2 alternative east/west connections and wyes (Avenue 21 and Avenue 24), and it identifies a third (SR 152) and indicates that all three options will be carried forward for additional environmental review and consideration.

Second, due to the Authority's commitment to examine and consider an SR 152 east/west connection and wye alternative, the EIR/EIS and the current proposed decision documents do not include a final decision on the wye area (as shown in the rectangular box on the graphics in the Final EIR/EIS, the staff presentation, and the proposed CEQA findings of fact). All three east/west connections and wyes will be carried forward for further environmental review.

Third, in considering approval of the hybrid alternative for the north/south alignment in the Merced to Fresno section, staff has determined that there is no prejudice or predetermination of the east/west connection and wye choice because each north/south alignment alternative (UPRR/SR 99, BNSF, and hybrid) worked with each east/west connection and wye (Ave 21, Ave 24, SR 152). In addition, this approach does not under-report or misrepresent the impacts of the north/south alignment because the area designated for further study (the area "inside the box") is configured to the common join points of each north/south alignment alternative studied in the EIR/EIS.

In conclusion, both the Draft EIR/EIS and the Final EIR/EIS explained the proposed approach to environmental review of the east/west connection and wye area "inside the rectangular" box. The proposed decision making approach to make a decision now only on the north/south alignment "outside the box" and to continue to study the area "inside the box" results in more environmental review, not less, and is consistent with the requirements of CEQA in the context of this complex and multifaceted project.

III. General Issues

Coordination with UPRR and impacts on Freight Service

The UPRR expressed their support for the Hybrid Alternative and has indicated their willingness to continue to work with the CHSRA to address outstanding issues, if this option is adopted. The UPRR also identified concerns with the EIR/EIS similar to issues raised by other comments. The Authority appreciates the comments that UPRR has provided and acknowledges the importance of designing a system that preserves freight operations and access for system maintenance and meets all federally mandated safety laws and FRA implementing FRA safety regulations. The Authority staff will continue to work cooperatively with the UPRR to address all issues associated with the introduction of HST service along the Hybrid Alternative upon certification.

Right of Way/Relocation Assistance

If someone has a business, and they have to relocate, is the Authority committing to help them get the kinds of permits they need to operate at a new location?

While each situation is unique and compensation and benefits may vary, the Authority's agents will be available to assist the owner in obtaining permits at the replacement property, and the business owner

is typically entitled to compensation for the cost of the required permits. The Authority will work with local jurisdictions to streamline processes to the extent possible; however, the jurisdictional requirements to obtain permits at replacement sites must still be met.

As a matter of approach, the Authority is coordinating closely with local governmental agencies and their partner agencies to assist with the relocation of businesses, including, but not limited to entering into cooperative agreements with these governmental agencies to provide the necessary resources to accommodate the additional workload. The Authority is also coordinating with these agencies to streamline processes, e.g., permit processes, and assist with identifying potential replacement sites. To assist in prioritizing parcels for appraisal and acquisition, the Authority will conduct a detailed Relocation Plan to identify those businesses that will potentially require long-lead times for acquisition and/or relocation. In addition, it is the Authority's responsibility to ensure that property and business owners, and all those impacted, will receive all the rights and benefits to which they are entitled under federal and state laws and regulations, including the federal Uniform Act. In California, this also includes the right of business owners to file a claim for loss of business goodwill.

Agricultural Issues: Mitigation Measures

The Board yesterday asked about whether staff has identified everything reasonable and feasible to mitigate impacts to agricultural land. The team in planning the features of the high-speed train alignment and the elements associated with it, such as road configurations, has optimized wherever prudent and consistent with project design criteria to reduce the acreage of agricultural land impacted. The cornerstone of the Authority's approach to mitigating agricultural land impacts involves permanent protection of at least an equivalent amount and quality of agricultural land through agricultural conservation easements. The mitigation measures will be implemented by the Department of Conservation, a state agency with an existing farmland protection program and with the experience and expertise to manage this program successfully.

The Mitigation Measure: **Ag-MM#1: Preserve the Total Amount of Prime Farmland, Farmland of Statewide Importance, Farmland of Local Importance, and Unique Farmland.** Takes advantage of a program already in existence developed and monitored by the Dept of Conservation, titled, the California Farmland Conservancy Program to implement the preservation of farmland. The Authority will fund the California Farmland Conservancy Program's work to identify suitable agricultural land for mitigation of impacts and to fund the purchase of agricultural conservation easements from willing sellers. The performance standards for this measure are to preserve Important Farmland in an amount commensurate with the quantity and quality of the converted farmlands, within the same agricultural regions as the impacts occur, at a replacement ratio of not less than 1:1. The California Farmland Conservancy Program will work with local, regional, or statewide entities whose purpose includes the acquisition and stewardship of agricultural conservation easements.

The Authority and California Farmland Conservancy Program will develop selection criteria under this agreement to guide the pursuit and purchase of conservation easements. These will include, but are not limited to, provisions to ensure that the easements will conform to the requirements of Public Resources Code Section 10252 and to prioritize the acquisition of willing seller easements on lands that

are adjacent to other protected agricultural lands or that would support the establishment of greenbelts and urban separators.

This standard is consistent with that of other state agencies that engage in transportation and related projects. It is also consistent with the approach taken in Merced, Madera, and Fresno counties. This mitigation measure would be effective given the nationwide and local success of farmland preservation programs using agricultural conservation easements and the experience of the DOC California Farmland Conservancy program. However, because the mitigation does not anticipate the creation of new farmland (conversion of natural lands to agriculture), the Authority and FRA are not claiming that the mitigation measure would reduce impacts to a less than significant level.

The EIR/EIS contains several commitments related to design features as recorded in Section 3.14.6, including: 1) assistance for animal facility owner during the process of obtaining new or amended permits or other regulatory compliance necessary for the continued operation or relocation of the facility. 2) funding programs to research wind and noise effects of HST operations on agricultural activities. 3) Also, via the errata sheet under consideration in the May 3rd Board presentation, the original Agricultural-MM#2 was made a design feature and commitment by the Authority. It Establishes and administers a farmland consolidation program to sell remnant parcels to neighboring landowners for consolidation with adjacent farmland properties with the goal of the program providing continued agricultural use on the maximum feasible amount of remnant parcels and those that were under Williamson Act or Farmland Security Act contract at the time of right-of-way acquisition. The program will operate for a minimum of 5 years after construction of the section is completed.

Staff believes that the agricultural land conservation easements and the farmland consolidation program address the impact of converting agricultural land to a transportation use. The EIR/EIS recognizes, however, that there will be a loss of agricultural land from this project and that this loss is a significant and unavoidable impact. A commenter suggested the Authority consider an additional mitigation measure to improve otherwise marginal farmland. The team has previously considered this option and believes it is not a feasible mitigation measure. Regarding suggestions for additional mitigation measures to prevent urban sprawl, Authority staff is already working with station area cities on planning processes to facilitate station areas that can promote SMART growth and take development pressure off agricultural lands.

Fagundes Errors in Confined Animal Technical Memorandum

The Fagundes Brothers expressed concerns over the representation of ownership and effects to their properties in the '*Impacts on Confined Animal Agriculture Technical Memorandum*'.

A mislabeling of Fagundes Brothers poultry farm was identified and noted in the errata sheet as presented as part of the Board Agenda item for May 3rd. The concern raised by the Fagundes Brothers on the multiple property ownership is noted, but the degree of removal on one property owner versus the larger farm does not change the analysis or the conclusions in the EIR/EIS. The concerns they note are primarily related to an agricultural business, but the impact is primarily economic. The EIR/EIS notes that dairies are not considered as one of the unique FMMP agricultural farmland resources separate and

apart from their soil type, and are therefore not considered agricultural impacts under CEQA and NEPA. However, the Authority recognizes the important role the dairies have on the agricultural economy and therefore have included design feature commitments to assist in managing effects on diaries in either assisting in relocating the facility or by assisting in amending the dairy's existing regulatory permits. This is in addition to the compensation measures required under the Uniform Relocation and Property Acquisition Act.

Adequacy of the Water Analysis

Comment: Inadequate CEQA Water Supply Analysis Concerning Construction Phase Water Demand and Water Supply. Construction water use is more fully described in Appendix 3.6-A, Water usage Analysis for HST Merced to Fresno Section. The primary conclusions are carried into Section 3.6 (Utilities). Construction water use is discussed on pp. 8-9, and details are shown in Table 2. For various reasons, the sources of construction water are not identified. Primarily, this is because annual water use would drop from 7,362 acre feet (the estimated agricultural demand) to 685 acre feet (the amount needed for various construction purposes) – a decrease of 91 percent. The water not used for farming would be available for construction. Any attempt to state the exact construction water source would be highly speculative. The water sources are most likely the same sources that supply the farms on a regional basis – groundwater and surface water deliveries from the local districts. Again, the savings to these sources from removing the productive farmland is much more than the new demands from construction.

There is no inconsistency between Section 3.6 (Utilities) and Section 3.8 (Water). The text highlighted in the comment ("because no water would be used along the alignment") is from *Project Impacts*, and therefore does not address construction water.

Comment: Improperly Piecemealed Water Demand Estimates. Chapter 1, Project Purpose Need and Objects, describes the environmental review process for the HST system. Program-wide documents were prepared analyzing the impact of the overall project on resources under CEQA and NEPA. The Merced to Fresno EIR/EIS, for which independent utility has been documented, tiers from the program document to include additional site-specific effects not considered in the Program EIR/EIS. In addition, a discussion of cumulative impacts to water resources and infrastructure is included in the cumulative impacts analysis section (see Section 3.19.3.5).

Preparation of a Water Supply Assessment. SB 610 (Water Code Section 10910, et seq.) requires counties and cities considering approval of certain projects to prepare water supply assessments to be considered in conjunction with the EIR for that project. First, HSRA is not a county or city. Second, Water Code Section 10912 defines a "project" for purposes of this statute to be any of the following:

1. A proposed residential development of more than 500 dwelling units.
2. A proposed shopping center or business establishment employing more than 1,000 persons or having more than 500,000
   square feet of floor space.
3. A proposed commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor
   space.

4. A proposed hotel or motel, or both, having more than 500 rooms.
5. A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying
   more than 40 acres of land, or having more than 650,000 square feet of floor area.
6. A mixed-use project that includes one or more of the projects specified in this subdivision.
7. 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.

The HST Project is none of these. As noted in Section 3. 6, it would not result in a net increase in water demand. Therefore, SB 610 does not apply.

Environmental Justice

Comment: Revisit the determination of Disproportionate Impacts on Environmental Justice Populations

The EIR/EIS considered Environmental Justice effect across each resource area. The analysis identified where any project impact occurred. The objective of the analysis is to identify whether disproportionately high and adverse effects occur (not the size of the EJ population) as the basis for the analysis. The analysis determines whether an adverse effects would be predominately borne by a community of concern, and if the adverse effects that would be suffered by the communities of concern would be appreciably more severe or greater in magnitude than the adverse effect that would be suffered by the non-communities of concern (general population). The analysis also reviewed the proposed mitigation and enhancement measures, the project benefits including those that would accrue to the communities of concern, and finally if the project affects a resource that serves an especially important social, religious, or cultural function for a community of concern.

As an example, impacts related to noise and vibration are not anticipated to result in disproportionately high and adverse impacts on communities of concern because the impacts would not be greater in magnitude than the impact on the general population. Additionally, for noise impacts, there are mitigation measures that address noise impacts including sound barriers which reduce a number of noise impacts. Noise impacts, although predominately borne by communities of concern in most areas, as the concentration of communities of concern is greater than 50-percent, would affect all populations equally in all locations where the impacts occur because all populations are impacted by the increase in noise levels to the same degree. Therefore the impacts on communities of concern are not anticipated to be greater in magnitude than those impacts on the general population.

As described in the mitigation measure SO-MM#5, outreach will continue to the communities of concern to obtain feedback on the potential impacts and suggestions for mitigation measures.

Comment: Provide estimates of duration of Construction

Construction durations within each community vary depending on the location. Construction durations would be longer in the station areas, but as described there are limited populations in the station areas in close proximity. For any areas of elevated guideway the construction duration would be longer than at-grade guideway.

Comment: Provide a table that displays residential and business displacements by community

The tables below provide additional information to illustrate the residential and business displacements in the cities and counties in by HST alternative. Complete information by design option and wye alternative is including in the Community Impact Assessment.

Residential Displacements by HST Alternative

Area	Residential Units/Number of People Displaced		
	UPRR/SR 99	BNSF	Hybrid
Merced County	2/7 to 3/10	15/50 to 24/80	2/7 to 3/10
City of Merced	43/135	43/135	43/135
Le Grand	N/A	1/4 to 12/43	N/A
Madera County	37/127 to 66/222	54/177 to 64/210	50/164 to 81/166
City of Chowchilla	0/0 to 2/6	0/0 to 1/3	0/0 to 1/3
City of Madera	61/233 to 65/248	N/A	N/A
Madera Acres	N/A	50/190	36/137 to 39/148
City of Fresno	50/153	50/153	50/153
Totals	193/650 to 228/773	215/716 to 244/815	186/614 to 213/701
N/A – Not Applicable (Alternative does not travel through area)			

Business Displacements by HST Alternative

Area	Businesses/Number of Employees Displaced		
	UPRR/SR 99	BNSF	Hybrid
Merced County	1/19	0/0 to 1/19	1/19
City of Merced	46/736	47/736 to 48/752	46/736
Le Grand	N/A	0/0 to 3/54	0/0
Madera County	15/180 to 18/216	13/156 to 20/240	8/96 to 10/120

Area	Businesses/Number of Employees Displaced		
	UPRR/SR 99	BNSF	Hybrid
City of Chowchilla	0/0 to 3/33	0/0	0/0 to 3/33
City of Madera	62/744 to 64/768	N/A	N/A
Madera Acres	N/A	0/0	0/0
City of Fresno	168/2,640 to 166/2,656	168/2,640 to 166/2,656	168/2,640 to 166/2,656
Totals	284/4,223 to 295/4,388	217/3,420 to 237/3,721	212/3,363 to 226/3,564
N/A – Not Applicable (Alternative does not travel through area)			

Comment: Augment SO-MM#2 to commit to focusing business relocation and workshops for property effects

SO-MM#2 is no longer a mitigation measure and has been included as a design feature. As described in the measure, business owners and tenants will be provided individualized assistance and a best effort will be made to minimize the permanent closure of displaced businesses. Additionally, as described in Section 3.12, in the station areas there are a number of vacant and underutilized properties where businesses could relocate if displaced in the station areas and the HST alternatives guideways tend to be located in areas where there are industrial related land uses and commercial uses are not generally neighborhood serving.

SO-MM#5 (Continue outreach to disproportionately and negatively affected environmental justice communities of concern) and SO-MM#6 (Avoid displacements or consider housing options in Franklin-Beachwood, Le Grand, Fairmead, and rural areas) both include language similar to the commitments made in SO-MM#4 for the Fresno to Bakersfield DEIR/EIS. SO-MM#5 and SO-MM#6 include information on continuing outreach to the communities that would be adversely affected and information on allowing residents to remain in their communities.

Comment: Confirm that the Authority has implemented Title VI of the Civil Rights Act

Title VI is the portion of the Civil Rights Act of 1964 requiring nondiscrimination in federally assisted projects. To ensure compliance with Title VI, related statutes and the Presidential Executive Order on Environmental Justice (EO 12989), the Authority has analyzed harmful human health and environmental effects on minority and low-income populations; identified mitigation measures to reduce these impacts; and actively sought participation by low-income and minority populations in EIR/EIS process. Because the populated areas near the alignment alternatives contain environmental justice populations, public outreach efforts have been designed to address the specific needs of communities of concern (e.g. Spanish-speaking, and low income). Please refer to Chapter 8, Public and Agency Involvement, the

Merced to Fresno Community Impact Assessment, (Authority and FRA 2012), and the Merced to Fresno Section Environmental Justice Outreach Plan, (Authority and FRA, 2010) for additional information.

As a part of the public participation program for the EIR/EIS, the Authority conducted nearly 300 meetings from 2009 to 2012. Over 7,000 businesses, organizations, and residents participated in these meetings. In addition, the Authority has conducted outreach meetings or workshops with 16 environmental justice-related community groups and organizations. For example, the Authority has recently met on several occasions with the community of Fairmead, an African-American community of historical significance, to address environmental concerns with the project alignment.

Outreach efforts to engage environmental justice populations during the EIR/EIS public comment period included providing meeting notices to environmental justice interest groups, listing advertisements in Spanish-language newspapers, posting meeting notices (in English and Spanish) at community facilities that serve low-income and minority populations, and providing Spanish interpreters at public hearings and meetings. A telephone hotline with interpreter services was also established to receive the Draft EIR/EIS comments. The Authority provided Spanish translated versions of milestone documents and summaries (e.g., Staff Recommendation Report for Preferred Alternative Alignment, Final EIR/EIS executive summary, documents highlights, and factsheet) explaining major steps in the environmental process. These materials were made available at public hearings, public information meetings, and on the Authority website.

Sprawl Inducement, Land Use, Station Area Development, and SB 375

The HST project promotes good planning. With the introduction of the HST, the cities of Merced and Fresno could direct more growth into the area surrounding the station thereby promoting infill development in the existing city centers in support of their planning policies. This would help direct the growth into higher-density and more sustainable development patterns and help achieve the goals of the Sustainable Community Strategy adopted by each of the Central Valley MPOs and the general plans of the area (Final EIR/EIS, page 3.18-23 and 24).

In contrast to sprawling auto-oriented land-use patterns promoted by our present highway infrastructure, the HST does not accommodate continuous access points along its transportation corridor. Because the HST system limits access to specific locations (stations), it promotes the management of future growth in a more sustainable manner. Placing HST stations within existing downtown location avoids “greenfield” developments and sprawl. By its very presence, these stations create new market opportunities for infill and economic prosperity.

Even though CHSRA (and other state agencies) do not control land-use decisions, our state transportation decisions have a direct influence on local growth patterns and development opportunities and the CHSRA will continue to work with local jurisdictions to advance SMART growth in station areas. Beyond the significant decision to place stations within city centers and to limit the number of station locations, other incentives to promote smart growth principles consistent with the objectives of SB 375 include:

- Station Area Planning Funding Agreements; Planning funds are being provided to cities with HSR stations so they can maximize land-use plans and development opportunities. Increased accessibility creates new business and travel opportunities that, in turn, promote new development opportunities around the stations (transit-orientated development). The City of Fresno on April 19, 2012 adopted a General Plan update with a Smart Growth approach to future development. The HST station area planning process will enhance the City's efforts to focus growth and reduce sprawl.
- Promotion of transit connectivity; The CHSRA is committed to reduce the demand of station parking by working with local and regional transit operators. Increased transit connectivity through the region can promote transit-orientated developments within surround communities. Prop 1A has provided funding for this and the recently adopted Revised 2012 Business Plan also commits to working with transit operators to secure funding for transit connectivity.
- Provide data and modeling tools; The CHSRA has invested in planning tools (Vision California) which help land-use authorities to make well-informed decisions. When a city council has planning tools that compare different land-use strategies, the long-term benefits of a more sustainable "smart growth" pattern become more attractive in contrast to the sprawl pattern of growth.

In summary, HSR provides an alternative mobility solution that discourages sprawl and promotes infill within our existing city centers, and provides a framework for future concentrated growth advancing the state's SB 375 goals. By complementing HSR with additional transit and regional rail connections, we provide a transportation choices that promotes denser land-use patterns and reduces the consumption more land and natural resources and, will be more cost effective.

Utility deferral /TPSS

All utilities relocations are accounted for by the engineers. This includes all local water, wastewater, and stormwater lines, along with cable, fiber optic, electrical, etc. etc. All utility relocation impacts are known and will be managed – either through relocation or protection. We don't know the precise details for each individual utility at this time (e.g., the precise location to where a particular small storm drain will be relocated), but this is a routine process for all transportation projects; more importantly, we did enough analysis to know that the utility relocation impacts will be adequately handled by standard engineering practices (e.g., making sure property owners do not have a material interruption in utility service, etc.). The Authority is in the process of developing Master Utility Agreements with each utility provider (including CWD), and the details about how the fixes will be made (and who pays for what) are being negotiated in the agreements.

A commenter stated that the TPSS locations were not disclosed or analyzed.

TPSS and power line information is included in the EIR/EIS. Key points:

- Chapter 2 of the Draft and Final EIR/EIS describes the need for TPSS and power line upgrades.
- Vol 2.B of the FEIR/EIS shows the construction footprint, which includes the TPSS and power line upgrades.
- Section 3.1.3 of the Draft and Final EIR/EIS describes the components of the construction footprint including electrical facilities.

Emissions from Hauling Materials Outside SJVAB

Comment: A**ppendix H does not adequately address hauling from outside the Project Area**: the findings of the ballast material hauling are summarized starting on Page 3.3-43 of the DEIS. Detailed information regarding the ballast material hauling information outside of the area can be found starting on page 7-37 of the Air Quality Technical Report. Further information regarding the emissions resulting from hauling outside the area can be found in the Air Quality Technical Report, Appendix H, Attachments C and D. The EIR concludes that hauling in two distant air basins could result in significant impacts and proposes mitigation.

Comment: Hauling ballast was grossly underreported: Emissions from vehicles required for hauling ballast to construction sites were calculated as part of the hauling emission calculations done for the construction phase of the project. Emissions resulting from ballast material hauling outside of the area are quantified in Appendix A, as detailed in response to Comment 717-10, Part 1. Vehicle Miles Traveled (VMT) estimates for material are shown in table B.1-57 of the EIS. The only year that shows zero VMT for hauling of ballast and sub-ballast is 2013 as no ballast hauling is expected to occur in that year. Table B.1-57 of the EIS Air Quality Technical Report is shown below for further clarification. Hauling emissions are detailed in Appendix B of the EIS Air Quality Technical Report, starting at Table B.1-56 and in Appendix B of the FEIS Air Quality Technical Report, starting at Table B.1-2.

Comment: Water trucks were not included in construction emission calculations: Emissions from water trucks have been included in the URBEMIS runs, which are detailed in the URBEMIS output files located in Appendix B of the DEIS and FEIS. Watering was assumed to occur 2 times a day in the DEIS and 3 times a day in the FEIS. The project has committed to this schedule and has incorporated this measure into the project's contractor requirements.

Air Quality Mitigation

Comment: Will the project have long-term negative impacts on air quality in the Central Valley.

No. The project will actually improve long-term air quality in the Central Valley. First, the project is committing to net zero construction emissions (by off-setting its construction emissions), thus will do no harm to air quality during construction. Second, once the train is operational, it will reduce the number of car trips people now take, as those drivers switch from cars to the high speed train. Car trips emit far more air pollutants per passenger mile than the electricity generation necessary to power the high speed train. Long-term, therefore, the project will improve air quality in the Central Valley.

Staging Areas and Batch Plants

Comment: The EIR/EIS does not indicate the size and location of construction staging and batch plants.

The location of staging areas and batch plants would be located in the footprint evaluated in the EIR/EIS. Knowing the precise location is not required for adequate analysis. For example, the Air quality impact analysis includes two construction staging areas during mobilization of the Merced-Fresno segment. Although the specific locations and sizes of these staging areas were not identified, the equipment utilized at each staging area was, which led to an estimate of construction equipment exhaust emissions during mobilization. Like other construction activities, air quality impacts from the staging areas were evaluated on a regional basis. Localized air quality impacts from the staging areas are not expected to be significant, because the analysis results have demonstrate that the emissions from the mobilization

phase, which included the emissions from the staging areas, are minimal compared to the emissions from other HST alignment construction activities.

Noise and vibration impacts

Commenter stated that Noise Monitoring Sites in the vicinity of Sharon and Kismet was note evaluated. The existing noise levels were determined throughout the corridor by taking direct field noise measurements 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. 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.

Noise measurements completed south of Sharon and Kismet in Madera Acres were used to determine the existing noise levels. The dominant noise source in the Madera Acres noise measurements was freight and commuter train traffic on the BNSF railroad, and field observations determined this to be the dominate noise source in Sharon and Kismet due to sparse land use and roadway traffic. Noise levels were adjusted for distance from the railroad in several locations. Additionally, an existing vibration measurement was completed at the BNSF railroad in Sharon.

N&V MM#3 Noise and Vibration

FRA requirements for determining mitigation satisfy CEQA requirements for the HST project as federally funded projects are required to follow the assessment guidelines set forth by the FRA and FTA who provide uniform guidance on rail and transit projects. Noise and Vibration Mitigation Guidelines state that a receiver that receives at least 5 dBA noise reduction due to a barrier is considered a benefitted receiver (or receiving a substantial outdoor noise reduction), and this criterion for a benefitted receiver applies to the other mitigation options given with N&V MM#3 should a barrier not be feasible. Page 6-44 of the FTA guidance manual talks about criteria for interior noise levels from building insulation stating "…a treatment should provide a minimum of 5 dBA reduction in the interior of the building and provide an interior noise level of 65 dBA or less from transit sources."

Amtrak and the High Speed Train Tracks

The first section of the California HST requires over 100 miles of high speed track to test the high-speed trains. The Central Valley is the best location for this initial phase. However, even if HST Project were not to be fully funded, the American Recovery and Reinvestment Act (ARRA) funding must be used toward a project that has independent utility. The project purpose on page 1 of Chapter 1 of the EIR/EIS states that the HST Project would connect between a station in Merced and a station in Fresno. The IOS-First Construction would make it possible to connect to the existing stations in Merced and Madera via a crossover trackway with the BNSF railroad (at Avenue 17 near Madera) if the Authority's Preferred Alternative were selected, even if no other portion of the HST railway could be constructed.

The Authority and FRA acknowledge comments regarding the "independent utility" condition of the ARRA funding awarded for IOS-First Construction in the Central Valley. Essentially, this condition required the Authority to plan how it would utilize the ARRA funding to site and construct track that would have utility in the event additional HSR funding is never secured. Independent utility under ARRA would be achieved by allowing non-electrified passenger trains (e.g., San Joaquin service) to utilize the IOS-First Construction. The IOS-First Construction track would be vastly superior to existing BNSF Railway track in the same corridor, thus allowing faster and smoother service than currently exists.

The ARRA grant agreement with the FRA (in Attachment 3A, page 4) specifically states that such service would not be funded by Proposition 1A or run by the Authority. Proposition 1A would not fund the capital costs to facilitate such service to utilize the ICS (i.e., connector track to connect the ICS to the existing BNSF mainline, plus associated positive train control [PTC] and interim station capital costs); these would be 100 percent federal funds. In short, therefore, improved non-electrified passenger service utilizing the IOS-First Construction is not part of the project (i.e., a high-speed electrified train project) for environmental review purposes. If such service were to be proposed, environmental review would be conducted by those agency(ies) that would institute and operate such service. As an indirect practical matter, however, potential environmental impacts of construction that would permit such service were fully analyzed in the EIR/EIS because any such service would run on HSR track, the construction impacts of which were fully analyzed.

In accordance with direction under NEPA and CEQA, the environmental impacts are evaluated under the highest foreseeable projected operation of the project. HST testing and/or non-electrified passenger use of the ICS would be far less frequent than the HST operational plan projected for the project and evaluated in the EIR/EIS. Therefore, any such testing or non-electrified passenger use would have lower noise levels and otherwise would be less impactful than disclosed in the EIR/EIS. There would be no new exposure of sensitive receptors to air quality or vibration impacts. Safety is also addressed, in that the safety protection of the project includes complete grade separation from other modes, and no public access of the corridor prior to beginning the testing or use of the corridor. This is supported by many years of experience in multiple countries which has shown that even during earthquake conditions, the independent operation of each train car greatly reduces the risk of derailment of an HST; see Section 3.11, Safety and Security, for more detail on this topic. The information in this paragraph is provided for general information only. NEPA and CEQA are clear that uncertain future activities not currently proposed for approval and that are not reasonably foreseeable consequences of the project that is proposed for approval need not be included in the project description or analyzed in the EIR/EIS. See Kostka & Zischke, Practice Under CEQA (CEB 2011) Section 12.10 (citing No Oil vs. City of Los Angeles (1974) 13 Cal.3d 68, 77 n.5, and eight other cases). First, diesel train operations would be done by other state and/or regional agencies, not the Authority. While under consideration for implementation by others, the nature and extent of such use (e.g., types of trains, number of trains) is too undefined and speculative to conduct an analysis even if the law required such analysis. Second, institution of such use would require environmental review by those agency(ies) that would operate the service; they would actually be the lead environmental agency. See National Parks & Conserv. Ass'n v. County of Riverside (1996) 42 Cal.App.4th 1505, 1520 (action potentially related to proposed project did not need to be

evaluated in project's EIR because too little was known about the other action and other lead agencies would issue permits/approvals for the action).

Biological Performance Standards

Comment: Biological resource impacts fails to conduct appropriate wildlife surveys

Only a maximum of 11 percent of all parcels identified as having suitable habitat for special-status plants were accessible during the 2011 protocol special-status plant surveys conducted within the Merced to Fresno segment of the High Speed Rail. Due to the low overall inaccessibility of access route parcels along with intermittent accessibility to the approved parcels, special-status wildlife surveys were not conducted within the MF segment. Habitat(s) identified as suitable for special status wildlife within the MF segment were assumed to be occupied. Habitat suitability for special-status wildlife was determined through a database and habitat analysis. The California Natural Diversity Database (CNDDB) provided a baseline for species occurrences within the 10 USGS quad that surrounds the MF segment. The subsequent aerial analysis within the construction footprint and associated buffers identifies habitat and land cover types that are verified through subsequent reconnaissance field surveys. As all special-status wildlife habitat is to be fully mitigated and any occurrences of special-status species will be addressed through preconstruction surveys and relocation per the mitigation measures identified within Section 3.7.7.1, protocol surveys will not required to establish project impacts.

Comment: Inadequate biological baseline and ignores the "no net loss" performance standard

Responsibilities and performance standards are identified within each mitigation measure in Section 3.7.7. These habitat-based performance standards include consideration for the establishment of a species or habitat. Mitigation measures regulatory requirements have been met through coordination with state and federal agencies, per CWA, ESA, CESA, Section 1600.

The preconstruction surveys specified within the mitigation measures do not delineate the environmental baseline for the Merced to Fresno (MF) segment of the High Speed Rail. Due to the overall inaccessibility to parcels within the MF segment, the environmental baseline for special-status wildlife and plant species occurrence within the MF segment is determined through a database and habitat analysis. The California Natural Diversity Database (CNDDB) identified the species with previous recorded occurrences within the 10 USGS quad that surrounds the MF segment. The subsequent aerial analysis within the construction footprint and associated buffers identifies habitat and land cover types that are verified through subsequent reconnaissance field surveys. Habitat(s) identified as suitable for special status species identified during the database analysis as potentially present within the MF segment were assumed occupied and will be fully mitigated per the performance standards delineated within *Mitigation Measure #5 Prepare and Implement a Biological Resources Management Plan*.

Forestiere Underground Gardens

Inadequate reporting of impacts on Forestiere Underground Gardens

The City of Fresno Historic Preservation Commission has played an integral part in the review process of all the technical reports, including the FOE. The City and County of Fresno are consulting parties on this and other historic resources in Fresno.

The Cultural Reports include more detail than the EIR/EIS and by reference are included to support the conclusion reported in the EIR/EIS. The analysis did evaluate vibration, traffic and detailed design evaluation to ensure avoidance of the Forestiere Underground Gardens. Construction will not restrict

access to the historic property, therefore there are no adverse traffic effects. The Project would cause no indirect physical destruction or damage that could result from construction or operation from vibration effects.