

# Submission S001 (Laura Miller, CA State Lands Commission-Division of Environmental Planning and Management, January 16, 2018)

Fresno - Bakersfield (2014 June+) - RECORD #350 DETAIL	
Status :	Action Pending
Record Date :	1/16/2018
Response Requested :	
Affiliation Type :	State Agency
Interest As :	State Agency
Submission Date :	1/16/2018
Submission Method :	Project Email
First Name :	Laura
Last Name :	Miller
Professional Title :	
Business/Organization :	CA State Lands Commission-Division of Environmental Planning and Management
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Apt./Suite No. :	
City :	
State :	CA
Zip Code :	
Telephone :	916-574-1911
Email :	Laura.Miller@slc.ca.gov
Email Subscription :	
Cell Phone :	
Add to Mailing List :	
Stakeholder Comments/Issues :	
Good Afternoon Mr. McLoughlin -	
Please find attached our department's comment letter on the Fresno to Bakersfield Project Section of the California High-Speed Rail Project (Draft Supplemental EIR/EIS). Feel free to contact me if you have any questions. An original copy will follow via U.S. Mail.	
SCH# 20090911276	
Thank you,	
Laura Miller CA State Lands Commission Division of Environmental Planning and Management 916-574-1911	
EIR/EIS Comment :	Yes
Official Comment Period :	Yes
Attachments :	350_CASLandsCommission_email_011618_Attachment.pdf (1 mb)

STATE OF CALIFORNIA

EDMUND G. BROWN JR., Governor

CALIFORNIA STATE LANDS COMMISSION  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202



January 16, 2018

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File Ref: SCH #2009091126

Mark McLoughlin  
Attn: Draft Supplemental EIR/EIS for the Fresno to Bakersfield Project Section  
California High-Speed Rail Authority  
770 L Street, Suite 620 MS-1  
Sacramento, CA 95814

VIA REGULAR & ELECTRONIC MAIL ([Fresno\\_Bakersfield@hsr.ca.gov](mailto:Fresno_Bakersfield@hsr.ca.gov))

**Subject: Draft Supplemental Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Fresno to Bakersfield Project Section of the California High-Speed Rail Project, Fresno, Kings, Tulare and Kern Counties**

Dear Mr. McLoughlin:

The California State Lands Commission (Commission) staff has reviewed the subject Draft Supplemental EIR/EIS for the Fresno to Bakersfield Project Section of the California High-Speed Rail Project (Project), which is being prepared by the California High-Speed Rail Authority (Authority). The Authority, as the public agency proposing to carry out the Project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), and the Federal Railroad Administration is the lead agency under the National Environmental Policy Act (42 U.S.C. § 4321 et seq.). The Commission is a trustee agency for projects that could directly or indirectly affect sovereign land and their accompanying Public Trust resources or uses. Additionally, because the Project involves work on sovereign land, the Commission will act as a responsible agency.

## Commission Jurisdiction and Public Trust Lands

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6009, subd. (c); 6009.1; 6301; 6306). All tidelands and submerged lands, granted or

# Submission S001 (Laura Miller, CA State Lands Commission-Division of Environmental Planning and Management, January 16, 2018) - Continued

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ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust Doctrine.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. On navigable non-tidal waterways, including lakes, the State holds fee ownership of the bed of the waterway landward to the ordinary low-water mark and a Public Trust easement landward to the ordinary high-water mark, except where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present-day site inspections.

Staff understands that a portion of the proposed Project is within the Commission's jurisdiction on State-owned sovereign land in the Kern River, near City of Bakersfield, Kern County and will require a General Lease – Public Agency Use. A lease application (File Reference No. W 27137) received September 22, 2017, is currently incomplete (see attached letter to Larry Bellucci, Senior Right of Way Agent, October 20, 2017). Please contact Cheryl Hudson, Public Land Management Specialist (see contact information below), with responses to outstanding questions in the incomplete letter dated October 20, 2017, or for updated information on the status of the application.

## Project Description

The Authority proposes the rail alignment from Shafter (Poplar Avenue) to the City of Bakersfield (Oswell Street). From the Project Description, Commission staff understands that the Project would include a "viaduct or elevated structure" crossing the Kern River. The Project's objectives and needs include the following:

- Develop a high-speed train system (guideways, structures, stations, traction-powered substations, and maintenance facilities) that coordinates with the State's existing transportation network, including intercity rail and bus lines, regional commuter rail lines, urban rail and bus transit lines, highways, and airports
- Provide electric-powered high-speed rail service between major urban centers, and that connects to airports, mass transit, the highway network in the south San Joaquin Valley, and the northern and southern portions of the system
- Provide the specific rail alignment from city of Shafter to City of Bakersfield crossing the Kern River (under Commission's jurisdiction) for the "Fresno to Bakersfield Locally Generated Alternative" in the Draft Supplemental EIR/EIS. (the Authority approved the Final EIR/EIS in May 2014, with the Preferred Alternative, and deferred alignment in this Bakersfield area)

Mark McLoughlin

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- Compare the Fresno to Bakersfield Locally Generated Alternative with the May 2014 Final EIR/EIS Project Alternative

## Environmental Review

Commission staff requests that the Authority consider the following comments on the Project's Supplemental EIR/EIS.

## General Comments

- S001-1 1. **Detailed Project Description:** Commission staff requests that specific Project details, such as engineering plans, for the "viaduct and elevated structure" crossing over the Kern River (Draft Supplemental EIR/EIS, Appendix 3.8-A) be included in the Supplemental EIR/EIS and Alignment Plans, Section C, HSR Elevated Structures Plans. Commission staff will need to rely on this analysis to determine the extent of the Commission's jurisdiction and evaluate the associated impacts and mitigation measures.
- S001-2 2. **Mitigation Measures:** The Commission staff requests that all mitigation measures are either presented as specific, feasible, enforceable obligations, or they are presented as formulas containing "performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way" (State CEQA Guidelines, §15126.4, subd. (a)).

## Biological Resources and Wetlands

- S001-3 3. **Underwater Noise:** If pile driving is needed to construct the elevated structures in or over the Kern River, staff requests that additional analysis be included in the Supplemental EIR/EIS explaining possible impacts from using vibratory or impact hammers. If it is expected that underwater noise would be generated, then an underwater noise analysis should be included in the MND to assess impacts on special-status species (see Draft Supplemental EIR/EIS page 3.4-C-4).

## Hydrology and Water Resources

- S001-4 4. **Mitigation Measure HWR-MM#1 Construction:** Commission staff requests that floodplain protection measures be identified and implemented during construction activities in the Kern River floodplain. Please also identify if cofferdams, spill prevention plans (Mitigation Measure HMW IAMM#7 on Draft Supplemental EIR/EIS page 3.10-10) or offsite refueling requirements would be included during construction (Draft Supplemental EIR/EIS page 3.8-44).

## Hazardous Materials and Wastes

- S001-5 5. **Mitigation Measure HMW IAMM#5 Undocumented Contamination:** Please consult with Commission staff when preparing construction management plans for disturbance of undocumented contaminated soil in the Kern River (Draft Supplemental EIR/EIS page 3.10-40).

# Submission S001 (Laura Miller, CA State Lands Commission-Division of Environmental Planning and Management, January 16, 2018) - Continued

Mark McLoughlin

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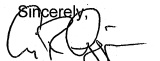
S001-6

## Recreation

6. **Public Access to Waterways:** To the extent feasible, Commission staff requests that the Kern River remain accessible to the public for recreational uses (Supplemental Draft EIR/EIS page 3.8-19) throughout the construction period when cofferdams (Supplemental Draft EIR/EIS page 3.8-28), barges, or other features are placed in the Kern River. Promoting public access to and using California's navigable waters is a mandate of the California Constitution (art. X, § 4), a condition of statehood in the Act of Admission (9 Stat. 452), and a responsibility of State agencies pursuant to the Public Trust Doctrine.

Thank you for the opportunity to comment on the Draft Supplemental EIR/EIS for the Project. As a responsible and trustee agency, the Commission will need to rely on the Final Draft Supplemental EIR/EIS for issuing a new lease as specified above and, therefore, we request that you consider our comments prior to certifying the Supplemental EIR/EIS.

Please send copies of future Project-related documents, including electronic copies of the Final Supplemental EIR/EIS, Mitigation and Monitoring Plan, Notice of Determination, CEQA Findings and, if applicable, Statement of Overriding Considerations when they become available. Please refer questions concerning environmental review to Afifa Awan, Environmental Scientist, at (916) 574-1891 or via e-mail at [Afifa.Awan@slc.ca.gov](mailto:Afifa.Awan@slc.ca.gov). For questions concerning Commission leasing jurisdiction, please contact Cheryl Hudson, Public Land Management Specialist, at (916) 574-0732 or via e-mail at [Cheryl.Hudson@slc.ca.gov](mailto:Cheryl.Hudson@slc.ca.gov).

Sincerely,  


Cy R. Oggins, Chief  
Division of Environmental Planning  
and Management

## Attachments

October 20, 2017, Incomplete Letter Requesting Additional Application Information

cc: Office of Planning and Research

L. Bellucci, Authority  
A. Awan, Commission  
P. Huber, Commission  
C. Hudson, Commission

STATE OF CALIFORNIA

EDMUND G. BROWN JR., Governor

CALIFORNIA STATE LANDS COMMISSION  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202



Established in 1938  
October 20, 2017

JENNIFER LUCCHESI, Executive Officer  
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California Relay Service From TDD Phone 1-800-735-2929  
From Voice Phone 1-800-735-2922

Contact Phone: (916) 574-0732  
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File Ref: W 27137

Larry Bellucci  
Senior Right of Way Agent  
California High-Speed Rail Authority  
770 L Street, Suite 800  
Sacramento, CA 95814

SUBJECT: General Lease – Public Agency Use for Construction of a New  
Electric-Powered High-Speed Train System From Fresno to  
Bakersfield, Fresno and Kings Counties

Dear Mr. Bellucci:

Staff reviewed your application to determine if it contains sufficient information to be determined complete as provided by law and the Commission's application requirements.

According to the information provided, the application is incomplete and the following needs to be provided:

1. The application identifies that the proposed Project crosses Kings River, Cole Slough, and Dutch John Cut under the Commission's jurisdiction. However, the map in the Notice of Determination ([http://www.hsr.ca.gov/Programs/Environmental\\_Planning/final\\_fresno\\_bakersfield.html](http://www.hsr.ca.gov/Programs/Environmental_Planning/final_fresno_bakersfield.html)) shows that the Project also crosses Tule River, Poso Creek, and Kern River. Therefore, Commission staff requests a map that shows the final rail routes for this Project from the city of Fresno to the city of Bakersfield crossing all water bodies so that the Commission staff can better assess Commission's jurisdiction for leasing these areas to the Applicant for the proposed Project.
2. Please state and show on a map the Project alternatives that were selected as the final Project design on lands under the Commission's jurisdiction.

## Submission S001 (Laura Miller, CA State Lands Commission-Division of Environmental Planning and Management, January 16, 2018) - Continued

Larry Bellucci  
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3. Please provide the Compensatory Mitigation Plan being referred to in response (Comment # S006-6) to the Commission comment letter for the Revised Draft Environmental Impact Report/Statement EIR/EIS that was submitted on September 20, 2012.
4. Please provide most recent biological or cultural surveys completed for Project areas under the Commission's jurisdiction.
5. Please provide National Marine Fisheries Service's Biological Opinion for the proposed Project that would help the Commission staff understand possible work on lands under the Commission's jurisdiction like piles in the wetted channels.
6. Because the Mitigation and Monitoring Program (MMP) ([http://www.hsr.ca.gov/docs/programs/fresno-baker-eir/brdmtg\\_050614\\_Item5\\_6\\_ExB\\_Mitigation\\_Monitoring\\_Reporting\\_Program.pdf](http://www.hsr.ca.gov/docs/programs/fresno-baker-eir/brdmtg_050614_Item5_6_ExB_Mitigation_Monitoring_Reporting_Program.pdf)) is for the entire project and not just lands under the Commission's jurisdiction, the Commission staff requests that the Applicant provide a spreadsheet (with recommended columns below) with information on all mitigation measures identified in the MMP. Commission staff would need to rely on this information to analyze all possible mitigation measures that should be applied to carrying out Project-related activities on lands under the Commission's jurisdiction. This information would also be needed to create exhibits for the staff report when recommending approving any lease to the Commission for this Project as done so for a different projects at [http://archives.slc.ca.gov/Meeting\\_Summaries/2013\\_Documents/04-26-13/Items\\_and\\_Exhibits/C72.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2013_Documents/04-26-13/Items_and_Exhibits/C72.pdf) and [http://archives.slc.ca.gov/Meeting\\_Summaries/2016\\_Documents/10-13-16/Items\\_and\\_exhibits/63.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2016_Documents/10-13-16/Items_and_exhibits/63.pdf).

Please include the following columns in the spreadsheet:

- A. List of all Significant Impacts (No.)
  - Please list all significant impacts in the MMP even if they are not applicable to lands under the Commission's jurisdiction.
- B. Impact Name
  - Please list all impact names in the MMP even if they are not applicable to the lands under the Commission's jurisdiction.
- C. Impact Page #s in the Final EIR/EIS
- D. Less than Significant Impacts (prior to mitigation - if they have mitigation)
  - Please list all less than significant impacts in the MMP even if they are not applicable to the lands under the Commission's jurisdiction.

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### E. Significant and Unavoidable Impacts (Yes/No)

- Please explain if the impact would be less than significant or unavoidable after applying the proposed mitigation measures.

### F. Mitigation Measure #s

- Please list all mitigation measures in the MMP even if they are not applicable to the lands under the Commission's jurisdiction.

### G. Commission Jurisdiction (Yes/No)

- Please state yes or no for all the impacts and mitigation measures in the MMP even if they are not applicable to lands under the Commission's jurisdiction. This would help the Commission staff determine all the mitigation measures that would need to be applied to lands under the Commission's jurisdiction.

### H. Mitigation Measure Page #s in the FEIR/EIS

- This should provide page numbers and links to the final environmental documents where it explains how that specific mitigation would help reduce possible environmental impacts on lands under the Commission's jurisdiction.

### I. Notes/Comments (e.g., why it is under Commission's jurisdiction or not)

- This should explain why each mitigation measure would or would not be applicable to lands under the Commission's jurisdiction so the Commission staff can document why certain mitigation measures were not part of the Responsible Agency MMP.

7. Please explain how climate change might impact areas under the Commission's jurisdiction and how these impacts would be handled for the life of the Project.

Although not necessary to deem the application complete, the following information is required by the Division of Environmental Planning Management to continue processing the application:

1. As a Responsible and Trustee Agency, the Commission will need to rely on the EIR/EIS for issuing any lease; therefore, we request that the Applicant confirm that all the documents are up to date at the following link [http://www.hsr.ca.gov/Programs/Environmental\\_Planning/final\\_fresno\\_bakersfield.html](http://www.hsr.ca.gov/Programs/Environmental_Planning/final_fresno_bakersfield.html).

## Submission S001 (Laura Miller, CA State Lands Commission-Division of Environmental Planning and Management, January 16, 2018) - Continued

Larry Bellucci  
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2. Please provide most current bridge designs or construction plans crossing water bodies under the Commission's jurisdiction.
3. Please provide name, contract information, and status of permits with other agencies for areas under the Commission's jurisdiction.
4. Please provide results of coordination with the California Fish and Wildlife or other agencies for proposed activities under the Commission's jurisdiction.
5. Please provide results of all coordination with the Native American tribes for lands under the Commission's jurisdiction.
6. Please be advised that DEPM staff costs will be approximately \$3,000 for preparing the exhibit(s) for the staff report. This cost would be minimized if the Applicant provides the information requested to assist in writing the staff report for recommending approving the Project to the Commission.
7. Please ensure that the following MMP provision is included into the lease documents:

"Lessee agrees to be bound by and fully carry out, implement, and comply with all mitigation measures and reporting obligations identified as Lessee's, or Responsible Party's responsibility as set forth in the Mitigation Monitoring Program (MMP) attached hereto as Exhibit C and by this reference made a part of this Lease, or as modified by Lessor as permitted by law."

Upon receipt and review of the above information, you will be notified if your application is complete. Once your application has been deemed complete, the California State Lands Commission must act on your application as provided by law.

You are encouraged to submit the information listed above at the earliest possible time in order for us to process your application in a timely manner.

Please contact me at (916) 574-0732 if you have any questions on this matter.

Sincerely,

Original Signed by

Cheryl Hudson  
Public Land Management Specialist

cc: Accounting

## Response to Submission S001 (Laura Miller, CA State Lands Commission-Division of Environmental Planning and Management, January 16, 2018)

### S001-1

Section 3.7, Biological Resources and Wetlands, Section 3.15, Parks, Recreation, and Open Space, and Section 3.16, Aesthetics and Visual Resources of the Draft Supplemental EIR/EIS evaluate the potential impacts associated with the elevated crossing of the Kern River. As indicated by the commenter, the design plans for the Kern River crossing are included in Volume III, Section C, Sheets ST-J1027, ST-J1028, and ST-J1029. The plan set included in Volume III of the Draft Supplemental EIR/EIS represents Preliminary Engineering for Project Definition. The Authority will continue to refine the design and will coordinate with agencies of jurisdiction as the designs are finalized.

### S001-2

The commenter requests that all mitigation measures are either presented as specific, feasible, enforceable obligations, or they are presented as formulas containing performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way (State CEQA Guidelines, §15126.4, subd.(a)).

CEQA requires the Authority to analyze the potential impacts of the HSR (specifically for the May 2014 Project and F-B LGA in the Draft Supplemental EIR/EIS) and identify enforceable mitigation for each significant effect of the project and to mitigate or avoid the significant effects on the environment by adopting feasible mitigation measures as part of the project (Public Resources Code Section 21001.2). NEPA requires that all relevant, reasonable mitigation measures are to be identified, even if they are outside the jurisdiction of the lead agency or the cooperating agencies, and thus would not be committed as part of the Record of Decision (RODs) of these agencies (40 CFR 1502.16(h), 1505.2(c)). Based on CEQA and NEPA requirements, the Draft Supplemental EIR/EIS mitigation measures are sufficient.

Refer to Section 3.1 of the Draft Supplemental EIR/EIS which summarizes the Authority's and FRA's approach to avoid and minimize potential impacts of the F-B LGA through planning, and thoughtful design, informed by decisions made at the conclusion of the Statewide Program EIR/EIS process, including the adopted mitigation strategies. The Draft Supplemental EIR/EIS, throughout Chapter 3, summarizes mitigation measures for the HSR System and the Fresno to Bakersfield Section and as applicable mitigation measures are identified specifically for the F-B LGA, proposed station location, maintenance facilities, and power conveyance facilities. The NEPA Mitigation Monitoring and Enforcement Plan (MMEP) and CEQA Mitigation Monitoring and Reporting Program (MMRP) will be amended to include new F-B LGA mitigation measures as applicable or revised mitigation measures applicable to the F-B LGA.

## Response to Submission S001 (Laura Miller, CA State Lands Commission-Division of Environmental Planning and Management, January 16, 2018) - Continued

### **S001-3**

A hydroacoustical analysis is not required as Project construction over the Kern River corridor is expected to occur when the river is dry. Additionally, the need for this type of analysis is generally triggered by potential affects to special-status aquatic species. No special-status aquatic species (anadromous fish) occur in the subject reach of the Kern River as downstream access is prohibitive (impassable barriers). Water flow in this reach of the Kern River is heavily managed via weirs, dams, and flood gates. If necessary, a dewatering plan will be prepared to ensure the channel is dry during the installation of the viaduct piers.

### **S001-4**

As described in the Draft Supplemental EIR/EIS under Impact HWR#4 - Temporary Impacts on Floodplains, standard floodplain measures, as specified in Mitigation Measure HWR-MM#1, would be implemented during construction for work within the City of Shafter floodplain and Kern River floodplain. Cofferdams would be used during in-water work during construction to avoid discharge of sediment from the construction site (page 3.8-29). Accidental spills or releases during construction could contaminate water quality during construction. Therefore, a discussion of and reference to Avoidance and Minimization Measure HMW IAMM#7, Spill Prevention, from Section 3.10, Hazardous Materials and Wastes, was included in Impact HWR#2 and Impact HWR#3. Refer to Volume I Changes to the Draft Supplemental EIS (Errata) of this Final Supplemental EIS. Offsite refueling would not be required and is not discussed in the Draft Supplemental EIR/EIS.

### **S001-5**

Relevant regulatory agencies and affected parties will be consulted when preparing construction management plans, consistent with HMW IAMM#5. As stated in the text of this avoidance and minimization measure (Draft Supplemental EIR/EIS, page 3.10-40), the Contractor will work closely with state and local agencies to resolve any such [unforeseen] encounters and address necessary cleanup or disposal.

No revisions to the Final Supplemental EIS are necessary based upon this comment.

### **S001-6**

Access to the Kern River will be maintained to the maximum extent feasible throughout project implementation. There would be some temporary access restrictions during project construction due to the presence of construction vehicles and equipment, in the interest of public safety. As noted by the commenter, construction of the project would require work in the Kern River to accommodate the installation of in-water supporting piers (Draft Supplemental EIR/EIS, page 3.8-28), and would affect designated beneficial uses for the Kern River which include (but are not limited to) Water Contact Recreation and Non-Contact Water Recreation. The temporary restriction of access to very specific portions of the Kern River during project construction would not substantially affect these beneficial uses.

No changes to the Final Supplemental EIS have been incorporated based upon this comment.

## Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018)

### Fresno - Bakersfield (2014 June+) - RECORD #442 DETAIL

Status : Action Pending  
Record Date : 1/24/2018  
Response Requested : No  
Affiliation Type : State Agency  
Interest As : State Agency  
Submission Date : 1/16/2018  
Submission Method : Letter  
First Name : Julie  
Last Name : Vance  
Professional Title : Regional Manager  
Business/Organization : California Department of Fish and Wildlife  
Address : 1234 East Shaw Avenue  
Apt./Suite No. :  
City : Fresno  
State : CA  
Zip Code : 93710  
Telephone : 559-243-4014  
Email :  
Email Subscription :  
Cell Phone :  
Add to Mailing List : Yes  
Stakeholder Comments/Issues :  
EIR/EIS Comment : Yes  
Official Comment Period :  
Attachments : 442\_Vance\_letter\_011618\_Original.pdf (519 kb)



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
1234 East Shaw Avenue  
Fresno, California 93710  
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor  
CHARLTON H. BONHAM, Director



January 16, 2018

Mark McLoughlin  
Director of Environmental Services  
California High Speed Rail Authority  
770 L Street, Suite 620 MS-1  
Sacramento, California 95814

**Subject: Fresno to Bakersfield Section Draft Supplemental Environmental Impact Report Environmental Impact Statement (SEIR/EIS) (Project)**  
**SCH# 2009091126**

Dear Mr. McLoughlin:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability for a Draft Supplemental EIR/EIS from California High-Speed Rail Authority (Authority) for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup> CDFW previously commented on related environmental documents including:

- California High-Speed Train System EIR/EIS on August 31, 2004.
- Bay Area to Central Valley Program Draft EIR/EIS on September 25, 2007.
- Bay Area to Central Valley Program Final EIR/EIS on July 7, 2008.
- Draft Project EIR/EIS for the Fresno to Bakersfield Section on October 13, 2011.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project, specific to the Fresno to Bakersfield Locally Generated Alternative (F-B LGA) that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW provides the following comments and recommendations on the proposed Project pursuant to CEQA (Pub. Resources Code, § 21000 et seq.), and the Guidelines for the Implementation of the California Environmental Quality Act (Cal. Code Regs., tit. 14, § 15000 et seq.; hereafter CEQA Guidelines) in our role as a CEQA Trustee and Responsible Agency.

<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

## Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

Mark McLoughlin, Director of Environmental Services  
California High-Speed Rail Authority  
January 16, 2018  
Page 2

### CDFW ROLE

S002-1 Under CEQA, CDFW is California's Trustee Agency for fish and wildlife resources, and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (Fish & G. Code, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

### DRAFT SEIR/EIS COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Authority in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

S002-2 **SEIR/EIS Comment 1: Section 2.4.1, Page 2-9**  
This Project will require a substantial amount of fill material to construct embankments, retained fill, and other constructed features. Analyses of previous high-speed rail segments inaccurately predicted the fill material would be sourced within the Project construction footprint. In order to assess impacts and physical change of the environment from all elements of the Project in its entirety as required by CEQA Guidelines § 15378 subd. (a), if fill cannot be sourced within the construction footprint, estimated acreage of surface disturbance outside of the construction footprint resulting from fill extraction should be disclosed in the final SEIR/EIS. Procedures for limiting impacts are advised to be outlined in the Project description (e.g., obtaining fill in areas not considered habitat for CESA listed species or near protected waterways). Any remaining significant impact should be mitigated accordingly.

Mark McLoughlin, Director of Environmental Services  
California High-Speed Rail Authority  
January 16, 2018  
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### S002-3 **SEIR/EIS Comment 2: Section 3.7, Page 3.7-1**

This document defines biological resources as special-status plant and wildlife species and habitats of concern. However, CEQA and NEPA<sup>2</sup> requirements to assess significant impacts are not limited to special status species. Please explain if any significant impacts to non-listed species could result from this Project (e.g., impacts restricting the movement of common wildlife species, etc.).

### S002-4 **SEIR/EIS Comment 3: Section 3.7, Page 3.7-1**

This section summarizes detailed information contained in the Biological Resources and Wetlands Technical Report. However, much of the information is the same in both reports rather than incorporated by reference. Further, both contain excessive background information that is not unique to the Project. This detracts from the readability and usefulness of the document to decision makers and the public, and is not consistent with CEQA Guidelines, section 15006 and NEPA regulations section 1502.15 and section 1500.4, which address limiting background information and focusing analysis on impacts and issues.

### S002-5 **SEIR/EIS Comment 4: Table 3.7-2, Page 3.7-6**

The table indicates that an incidental take permit (ITP) and streambed alteration agreement applications will be submitted to CDFW. As a CEQA Responsible Agency, CDFW must rely on the SEIR/EIS to address the impacts associated with these decisions. Please explain how and where impacts resulting from these permits are addressed in the document.

### S002-6 **SEIR/EIS Comment 5: Section 3.7.2.3, Page 3.7-10**

The document states that the core Habitat Study Area includes the proposed project footprint and a 250-foot buffer and that the core Habitat Study Area was the area that was physically surveyed (where access was granted). The latter part of this statement and the fact that areas surveyed were limited based on access contradicts the former part of the definition of the core Habitat Study Area. A clarification of the core Habitat Study Area versus the areas physically surveyed is needed.

### S002-7 **SEIR/EIS Comment 6: Section 3.7.2.3, Page 3.7-10**

The Literature Review section explains that before conducting field surveys, the Authority reviewed existing background information to identify the locations of jurisdictional waters, special-status plant and wildlife species, special status plant communities, protected (heritage) trees, wildlife movement areas, natural lands, and federally designated or proposed critical habitat units recorded in the F-B LGA but fails to list the literature resources used. Further, there is no reference to a table that lists those literature resources. An absolute determination of any of the biological resources

<sup>2</sup> See CEQA Guidelines Appendix G, IV, Biological Resources (d), XVIII, Mandatory Findings of Significance (a), and NEPA regulation 40 C.F.R. § 1502.3.

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- S002-7 | cannot be determined fully with a review of background information; thus, CDFW recommends the insertion of "potential" be added to this paragraph.
- S002-8 | **SEIR/EIS Comment 7: Section 3.7.2.3, Page 3.7-10**  
Regarding the Literature Review subsection *Jurisdictional Waters* and methodology used to determine the location, type and potential extent of known special aquatic resources features for the identification of wetlands and other waters; CDFW recommends a review of historical aerial images to more effectively determine hydrologic features.
- S002-9 | **SEIR/EIS Comment 8: Section 3.7.2.3, Page 3.7-13**  
Regarding the Literature Review subsection *Special-Status Species and Special-Status Plant Communities*, the document states that the California Natural Diversity Database (CNDDB)/Rarefind and California Native Plant Society (CNPS) programs were used to ensure that all special-status species were captured in the query. CDFW would like to state that while both CNDDB/Rarefind and CNPS programs are excellent tools, the databases are populated through voluntary submittal of positive detections and therefore are only as effective as the information included/submitted. Thus, areas of un-surveyed land may have undocumented occurrences of special-status species and special-status plant communities. As a result, it is expected that the outcome of the query underestimate the locations and probable detections of special-status species and plant communities within and adjacent to the construction footprint.
- S002-10 | **SEIR/EIS Comment 9: Section 3.7.2.3, Page 3.7-14**  
Regarding the Literature Review subsection *Wildlife Movement Corridors*, the first paragraph states that known wildlife movement corridors were identified through a review of published technical reports and information available from regulatory agencies. Further the document lists two data sources obtained but it is unclear if additional technical reports were used. If additional technical reports were used beyond Penrod et al. (2001 and 2003) these should be cited and/or listed in the document.
- S002-11 | **SEIR/EIS Comment 10: Section 3.7.2.4, Page 3.7-14**  
The document states that the habitat conditions for the Project are generally low quality and commensurate to equivalent habitat conditions identified for the southern portion of the Fresno to Bakersfield Section. However, due to the intensively modified landscape of the Central Valley, CESA listed species are often found in areas not considered to be ideal habitat. CESA listed species were found in ruderal and even developed areas in the high-speed rail segments that are currently under construction and presence should be presumed in all areas of potentially suitable and marginally suitable (e.g., adjacent to potentially suitable, containing elements of functional value such as burrows, adjacent to known occurrences of special-status species and plants, etc.) habitats for this Project as well.

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- S002-12 | **SEIR/EIS Comment 11: Section 3.7.2.4, Page 3.7-14**  
The document states that permission to enter was only granted for eight parcels. Based on CDFW's knowledge of this area, we believe additional parcels could be significantly impacted by the Project. Because much of the area could not be surveyed, the Authority should assume presence in all areas of potential habitat including certain agricultural areas (see above for discussion on marginally suitable habitat) and include mitigation measures to avoid impacts. Further access achieved was insufficient to adequately analyze resource potential and to conclude that habitat conditions are of low quality.
- S002-13 | **SEIR/EIS Comment 12: Section 3.7.2.4, Page 3.7-15**  
Regarding the *Reconnaissance Field Trip* section, ground-truthing and photo-documentation were conducted from roads. Please note that the survey, due to the lack of access and the deficiency of discrete timing to ensure maximum detectability, is inadequate to make an effective determination regarding resource presence or absence, particularly in regards to wetlands.
- S002-14 | **SEIR/EIS Comment 13: Section 3.7.2.4, Page 3.7-15**  
Regarding the *Delineation of Jurisdictional Waters* section, it is inappropriate to use United States Waters delineation to determine if Notification under Fish and Game Code section 1602 is required. Activities in any lake or stream feature have the potential to be jurisdictional for CDFW.
- S002-15 | **SEIR/EIS Comment 14: Section 3.7.2.4, Page 3.7-15**  
Regarding the *Botanical Surveys* section, the method undertaken for un-surveyed habitats that could support special-status plant species that were identified through visual surveys (i.e., from adjacent public roads or parcels) and aerial interpretation, consistent with the methodology reflected in the Fresno to Bakersfield Section Final EIR/EIS. Issues with this approach include overlooking potentially occupied areas where marginal habitats or areas of intact seedbanks for such species could still occur and potentially support plant populations.
- S002-16 | **SEIR/EIS Comment 15: Section 3.7.2.4, Page 3.7-16**  
The *Botanical Surveys* section describes overall regional low quality of habitat and this conclusion is predicated on the California Rapid Assessment Methodology findings for both alignments. CDFW would like to caution that with marginal habitats, and/or areas of recent habitat conversion, and/or areas of low quality habitat, intact seed banks persist and listed plant populations could persist and be inadvertently impacted. Further as stated in the document, the majority of the F-B LGA Special-Status Plant Study Areas consisting of urban or agricultural land with very little natural habitat, and negative results for special-status plant species presence for the May 2014 Project, are likely survey data collected during the California Statewide Drought of 2014. As such, the information should be re-evaluated and surveys and additional data is advised to be collected in at least an average rainfall year.

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- S002-17 | **SEIR/EIS Comment 16: Section 3.7.2.4, Page 3.7-16**  
Regarding the Trees section, CDFW recommends that ornamental eucalyptus tree species be carefully considered and surveyed to effectively analyze the State threatened Swainson's hawk (*Buteo swainsoni*) which regularly use eucalyptus ornamentals for nest trees.
- S002-18 | **SEIR/EIS Comment 17: Section 3.7.2.4, Page 3.7-16**  
Regarding the *Wildlife Habitat Assessment* section and the windshield survey method from existing public roads used to conduct wildlife habitat assessment surveys in the F-B LGA Habitat Study Area. This type of method along with the restricted survey viewing location from public roads only is inadequate to fully assess wildlife habitats in the F-B LGA segment.
- S002-19 | **SEIR/EIS Comment 18: Section 3.7.2.4, Page 3.7-16**  
Regarding Wildlife Movement Corridors, with the limited access for adequate surveys it is unclear that the effort performed would be adequate to fully assess wildlife movement corridors. Please clarify if track stations or camera traps were used in existing wildlife passages or crossings, described as culverts, washes, and automobile and train bridges that may have assisted with this assessment and if so what the results of such surveys yielded.
- S002-20 | **SEIR/EIS Comment 19: Section 3.7.3.1, Page 3.7-17**  
The document states in the *Summary of the May 2014 Project Affected Environment* that aquatic resources that could potentially be affected....."are in poor condition". Please note that aquatic resources in poor condition can still support important and sensitive resources and that the SEIR/EIS is recommended to describe those resources and identify any avoidance, minimization, and mitigation measures to reduce those impacts to less than significant.
- S002-21 | **SEIR/EIS Comment 20: Section 3.7.3.1, Page 3.7-17**  
The document relies on the conclusions as presented in the *Summary of the May 2014 Project Affected Environment* which generally states that un-surveyed habitats have a low potential to support special-status plant species. This conclusion is reached because suitable habitat and known occurrence of special status plant species are rare within the May 2014 Project Special-Status Plant Study Area and throughout the Central Valley in general. CDFW would like to re-state that occurrence data derived from voluntary positive detection reporting (i.e., CNDDDB, CNPS, etc.) is only as valuable as the information submitted. Further, areas in private ownership with suitable habitat elements for special-status plant species are often un-surveyed and therefore, lack published occurrence data. As has been stated previously, CDFW does not concur that reliance on voluntary positive detection reporting is a robust methodology for determining potential impacts to special-status plant species and in fact may contribute

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- S002-21 | to significant underestimation of areas where special-status plant species may occur and the impacts to such species in within and adjacent to the construction footprint.
- S002-22 | **SEIR/EIS Comment 21: Section 3.7.3.1, Page 3.7-17**  
The document states in the *Summary of the May 2014 Project Affected Environment* that the May 2014 Project is located primarily in agricultural and urban habitats, yet there is suitable, but limited, habitat for special-status amphibian, reptile, mammal, and bird species as well as other native wildlife species. Please note that both agricultural and urban habitats in this area have the ability to support native and special status wildlife species, including but not limited to San Joaquin kit fox (*Vulpes macrotis mutica*).
- S002-23 | **SEIR/EIS Comment 22: Section 3.7.3.1, Page 3.7-17**  
The document lists in the *Summary of the May 2014 Project Affected Environment* that special-status wildlife species that may be affected by the May 2014 Project include: Kern brook lamprey (*Entospenus hubbsi*); western spadefoot (*Spea hammondi*); coast horned lizard (*Phrynosoma blainvilli*); burrowing owl (*Athene cunicularia*), Swainson's hawk, and other raptors; Buena Vista Lake orate shrew (*Sorex ornatus relictus*); San Joaquin kit fox; Tipton kangaroo rat (*Dipodomys nitratoideis nitratoideis*); and special-status bats. This list fails to include additional special-status species that may be affected, including but not limited to: blunt-nosed leopard lizard (*Gambelia sila*), American badger (*Taxidea taxus*), tricolored blackbird (*Agelaius tricolor*), Nelson's antelope squirrel (*Ammospermophilus nelsoni*), and California legless lizard species (*Anniella pulchra* spp.).
- S002-24 | **SEIR/EIS Comment 23: Table 3.7-3, Page 3.7-26**  
Bakersfield cactus (*Opuntia basilaris* var *treleasei*) is evaluated as not likely to occur. CDFW recommends a further analysis of this possibility, particularly in the event that the proposed alignment should become shifted for any reason to east of Highway 65 (near and east of Highway 99) as the potential for this species to occur will increase significantly.
- S002-25 | **SEIR/EIS Comment 24: Section 3.7.3.2, Page 3.7-35**  
Regarding the *Habitats of Concern* section and the habitats of concern evaluated in the Habitat Study Area.....and wildlife movement corridors, please cite the relevant resources used following the wildlife movement corridors section.
- S002-26 | **SEIR/EIS Comment 25: Section 3.7.3.2, Page 3.7-35**  
Regarding the *Special-Status Plant Communities* section. As stated in the document, the entire Special-Status Plant Study Area was not surveyed due to limited permission to enter privileges. As similarly commented above, this effort is inadequate to effectively draw any final conclusions of the extent where special-status plant communities could

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- S002-26 | occur, whether impacts to these communities have been adequately analyzed, and whether the impacts are potentially significant.
- S002-27 | **SEIR/EIS Comment 26: Pages 3.7-37 through 3.7-41, CNDDDB Maps**  
Please note that CNDDDB is not a public dataset and use of CNDDDB data on these figures is not consistent with CDFW's data use guidelines. See CDFW's CNDDDB Data use Guidelines (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=27285&inline>) and CNDDDB Key Facts (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=43527&inline>) for more information.
- S002-28 | **SEIR/EIS Comment 27: Section 3.7.3.2, Page 3.7-53**  
Regarding the *Retention/Detention Basins* section and the statement that these basins are always devoid of vegetation. CDFW disagrees with this statement as many of these basin types contain ruderal, grassland, and wetland vegetation. As such, that statement is too broad in nature and is advised to be refined to include the potential for such vegetation to potentially occur. Further, regarding these basin types, the document states that they offer few biological resources to plants and wildlife. CDFW would like to note that these basin types can and often do still support wildlife and wildlife use including as foraging, dispersal, breeding, and refugia habitat.
- S002-29 | **SEIR/EIS Comment 28: Section 3.7.3.2, Page 3.7-53**  
Regarding the *Canals/Ditches* section and the statement regarding that canals and ditches offer few biological resources to plants and wildlife. CDFW would like to note that canals and ditches can still support wildlife and wildlife use in this area.
- S002-30 | **SEIR/EIS Comment 29: Section 3.7.3.2, Page 3.7-53**  
Regarding the *Canals/Ditches* section and the statement regarding the Kern River. As stated in the document, the extent of waters of the State in these seasonal riverine areas is delineated between the ordinary high water mark and the top of bank where riparian vegetation is absent. Further, it is stated that in the case of the Kern River, the riparian vegetation does not extend beyond the ordinary high water mark and, therefore, the extent of waters of the United States and of the State associated with this feature are the same. CDFW disagrees with this statement and that activities in areas of a stream devoid of vegetation may be jurisdictional pursuant to CDFW Fish and Game Code section 1602. Therefore, CDFW advises this section be revised and CDFW jurisdiction be uncoupled from the definition of waters of the United States.
- S002-31 | **SEIR/EIS Comment 30: Section 3.7.3.2, Page 3.7-61**  
Regarding the *Recovery Plans for Federally Listed Species* and the 11 species evaluated for their potential to occur within the F-B LGA Habitat Study Area, CDFW would like to know why Nelson's antelope squirrel, blunt-nosed leopard lizard, and the Buena Vista Lake ornate shrew were not evaluated or if they were accidentally omitted

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- S002-31 | from this section. As such, CDFW recommends that they be evaluated or this section be corrected to include these species.
- S002-32 | **SEIR/EIS Comment 31: Section 3.7.3.2, Page 3.7-69**  
Regarding the *Wildlife Movement Corridors* section and the statement that the most significant barriers to wildlife movement were identified as gaps in the riparian habitat and water impoundments, which potentially restrict the movement of terrestrial species across areas that formerly had only intermittent water flow (Penrod et al. 2001). Although this statement is true, it is also true that further fragmentation of the landscape by large barriers will significantly contribute to impacting the remaining existing habitat connectivity and movement corridors. Effective wildlife crossings will be essential to reduce significant impacts to wildlife movement corridors and CDFW recommends that this be thoroughly studied and analyzed, and that this occurs in consultation with experts and the resource agencies to develop effective crossings.
- S002-33 | **SEIR/EIS Comment 32: Section 3.7.4.1, Page 3.7-73**  
Regarding the *Special-Status Plant Species* section, the un-surveyed suitable habitats included annual grassland, valley foothill riparian, and alkali desert scrub. CDFW recommends that ruderal, certain agricultural lands (including alfalfa and other low growing and/or open cropping patterns), and recently converted land also be considered as a potential as the seedbanks of such species could be present and could support special status plants or populations. Further, regarding impacts in these un-surveyed areas and the types of impacts on special-status plant species that may occur could include vegetation removal and disturbance, erosion, and increased risk of fire, habitat degradation and fragmentation and the introduction of noxious plant and weed species. CDFW recommends that an analysis in changes in hydrologic regimes should also be considered a potential impact.
- S002-34 | **SEIR/EIS Comment 33: Section 3.7.4.1, Page 3.7-73**  
Regarding the *Special-Status Wildlife Species* section, the document fails to include alkali desert scrub to the habitats present that provide best potential to host special-status wildlife species. CDFW recommends adding in this habitat type. Further, the direct permanent impacts section fails to include disruption of breeding opportunities. CDFW recommends adding this impact and a thorough analysis of this impact to the section.
- S002-35 | **SEIR/EIS Comment 34: Section 3.7.4.1, Page 3.7-74**  
In the Habitats of Concern, subsection *Special-Status Plant Communities*, the document fails to include rural and agricultural to its setting which characterizes the May 2014 Project only as urban with small and fragmented remaining natural areas. CDFW recommends a revision to this section to better characterize the setting of the Project.

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- S002-36 | **SEIR/EIS Comment 35: Section 3.7.4.1, Page 3.7-74**  
Regarding the Habitats of Concern, subsection *Wildlife Movement Waters*, placement/staging of fill in a waterway, CDFW cautions that such activity could result in a Fish and Game Code section 5650 Water Pollution violation.
- S002-37 | **SEIR/EIS Comment 36: Section 3.7.4.1, Page 3.7-75**  
Regarding the Habitats of Concern, subsection *Wildlife Movement Corridors*, CDFW advises the inclusion of the at-grade embankment as an impact to wildlife movement and that this impact be thoroughly analyzed as a barrier to movement, gene flow, and reproductive success and discuss this in the context of planned wildlife crossings. This analysis is lacking, as are crucial measures to reduce these impacts to less than significant for species such as Nelson's antelope squirrel, Tipton kangaroo rat, and blunt-nosed leopard lizard, for which there is little to no data to demonstrate that wildlife crossings are successful in sustaining permeability for these critically endangered species.
- S002-38 | **SEIR/EIS Comment 37: Section 3.7.4.2, Page 3.7-76**  
Regarding the *BIO #1-Construction Effects on Special Status Plant Species*, CDFW recommends including a map following this section to better depict the Special Status Plant Species Study Area.
- S002-39 | **SEIR/EIS Comment 38: Section 3.7.4.2, Page 3.7-77**  
Regarding *BIO #2-Construction Effects on Special-Status Wildlife*, CDFW recommends that barren, roadside, ruderal and other habitats be considered suitable habitats for special status wildlife.
- S002-40 | **SEIR/EIS Comment 39: Section 3.7.4.2, Table 3.7-7, Page 3.7-77 through 3.7-79**  
CDFW recommends that Table 3.7-7 be re-evaluated and corrected as many vegetation communities and wildlife associations were not included in this table. As a result, for certain species, the absence of these key vegetation communities offers a flawed conclusion that some species do not have potential habitat (i.e., alkali sink) when in fact, that is not the case and species, such as Nelson's antelope squirrel could be present within the construction footprint while not acknowledged as a risk for potential presence in the document. CDFW finds that this methodology lends to conceivable gross underestimation of suitable habitat types and species presence within the construction footprint that may have consequences and cause delays in analyzing impacts for the purposes of the Authority obtaining permits under Fish and Game Code Section 2081(b).
- S002-41 | **SEIR/EIS Comment 40: Section 3.7.4.2, Page 3.7-80**  
There is no assessment of impacts to the fully-protected blunt-nosed leopard lizard. Impacts to blunt-nosed leopard lizard may occur as a result of the Project in the form of burrow collapse, habitat fragmentation, vehicle strikes, loss of site fidelity, lost breeding

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- S002-41 | opportunities and/or success, etc. and further, as depicted from the presented CNDDB Special-Status Wildlife Species map (Figure 3.7-6) there are documented occurrences of the species within the vicinity of the F-B LGA. Because blunt-nosed leopard lizard is a fully protected species, no take incidental or otherwise, can be authorized by CDFW. Therefore, CDFW recommends protocol-level surveys prior to any ground-disturbing activities in all areas of suitable habitat. Suitable blunt-nosed leopard lizard habitat includes areas of grassland and upland scrub that contain requisite habitat elements, such as small mammal burrows. Blunt-nosed leopard lizard also use open space patches between suitable habitats, including disturbed sites and unpaved access roadways. Surveys should follow CDFW's protocol-level survey methods described in the "Approved Survey Methodology for the Blunt-nosed Leopard Lizard" (CDFG, 2004). These surveys, designed to optimize blunt-nosed leopard lizard detectability, reasonably assure CDFW that construction project implementation will not result in take of this fully protected species. CDFW advises completion of BNLL surveys no more than one year prior to initiation of the ground or vegetation disturbance if construction activities will affect potential habitat. Blunt-nosed leopard lizard detection during protocol-level surveys warrants consultation with CDFW to discuss how to implement the tiered project and avoid take.
- It is important to note that protocol-level surveys must be conducted on multiple dates during late spring, summer, and fall and that within these time periods there are specific protocol-level date, temperature, and time parameters which must be adhered to. As a result, protocol-level surveys for blunt-nosed leopard lizard are not synonymous with 30-day "preconstruction surveys" often recommended for other wildlife species. CDFW recommends fully addressing avoidance, minimization, and mitigation measures for blunt-nosed leopard lizard in the document and that these measures be included as enforceable mitigation in the finalized document.
- S002-42 | **SEIR/EIS Comment 41: Section 3.7.4.2, Table 3.7.9, Page 3.7-82**  
Regarding statements under the heading of additional CDFW Riparian, it is unclear what this is intended to include. As stated previously, riparian vegetation may or may not be present for CDFW to make a jurisdictional determination that activities which occur in streams and waterbodies that have no riparian vegetation are subject to notification pursuant to Fish and Game Code section 1602.
- S002-43 | **SEIR/EIS Comment 42: Section 3.7.4.2, Page 3.7-84**  
Regarding the *Seasonal Riverine* section and the placement of supports, if the size and frequency of such supports are known, please include in the document to assist with the interpretation that these will be minor permanent impacts.
- S002-44 | **SEIR/EIS Comment 43: Section 3.7.4.2, Page 3.7-84**  
Regarding Conservation Areas subsection *Habitat Conservation Plans*, CDFW would like to state that the Metropolitan Bakersfield Habitat Conservation Plan (HCP) is dated

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- S002-44 | circa 1994 and "adequate mitigation" ratios determined in that HCP are likely not reflective of what adequate mitigation ratios would be in present time. As such, CDFW does not concur that the mitigation as presented in the document is sufficient to reduce the impacts to multiple habitat types, and to special-status species that potentially occupy the habitats, to less than significant. Further, CDFW finds that the mitigation as presented in the document is inadequate to fully mitigate and offset the taking of State-listed species in order for CDFW to issue an incidental take permit pursuant to Fish and Game Code Section 2081(b)(2).
- S002-45 | **SEIR/EIS Comment 44: Section 3.7.4.2, Page 3.7-86**  
BIO #5-Project Effects on Special Status Plant Species *Direct Effects*. CDFW recommends adding "further" to the statement related to operational activities that require maintenance of the railway with respect to direct effects to special-status plant species. In addition, an area that sustains continuous impacts should be analyzed as a direct and permanent impact.
- S002-46 | **SEIR/EIS Comment 45: Section 3.7.4.2, Page 3.7-86**  
BIO #5-Project Effects on Special Status Plant Species *Indirect Effects*. Impacts to a much lesser degree as described is subjective as herbicide use, grading and diking for fire control could be detrimental for re-colonized special-status plant species.
- S002-47 | **SEIR/EIS Comment 46: Section 3.7.4.2, Page 3.7-86**  
BIO #6-Project Effects on Special Status Wildlife Species, *Direct Effects*. CDFW recommends including herbicide application to where maintenance-associated ground disturbance, clearing, or grubbing are listed.
- S002-48 | **SEIR/EIS Comment 47: Section 3.7.4.2, Page 3.7-87**  
BIO #6-Project Effects on Special Status Wildlife Species, *Indirect Effects*. CDFW recommends adding "further" to the statement related to operational activities that require maintenance of the railway with respect to special-status wildlife species.
- S002-49 | **SEIR/EIS Comment 48: Section 3.7.4.2, Page 3.7-87**  
BIO #7-Project Effects on Habitats of Concern, Special status plant communities, *Direct Effects*. CDFW recommends adding "further" to the statement related to operational activities that require maintenance of the railway with respect to direct effects to special-status plant communities.
- S002-50 | **SEIR/EIS Comment 49: Section 3.7.4.2, Page 3.7-87**  
BIO #7-Project Effects on Habitats of Concern, Special-status plant communities, *Indirect Effects*. CDFW recommends adding "further" to the statement related to operational activities that require maintenance of the railway with respect to indirect effects to special-status plant communities.

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- S002-51 | **SEIR/EIS Comment 50: Section 3.7.4.2, Page 3.7-87**  
BIO #7-Project Effects on Habitats of Concern, Jurisdictional waters, *Indirect Effects*. CDFW may consider activities jurisdictional on un-named tributaries in addition to streams and waterbodies already named in the document.
- S002-52 | **SEIR/EIS Comment 51: Table 3.7-11, Page 3.7-88**  
BIO-AM#2 explains that wildlife crossing opportunities will be located along the locally generated alternative. Consultation with CDFW and the United States Fish and Wildlife Service to identify crossing locations that would increase likelihood of use by wildlife is encouraged and should be included in the document as an enforceable mitigation measure.
- S002-53 | **SEIR/EIS Comment 52: Table 3.7-13, Pages 3.7-91 and 3.7-92**  
This table states that the portion of BIO-MM#57 and all of BIO-MM#26, 27, and 28 specific to blunt-nosed leopard lizard are not applicable due to absence of suitable habitat, and that the locally generated alternative would not affect the species. This Project is within the range of blunt-nosed leopard lizard and the species has the potential to occur in the Project area and be impacted by the Project. CDFW suggests BIO-MM# 26, 27, 28, and #57 be included in this SEIR/EIS.
- S002-54 | **SEIR/EIS Comment 53: Section 3.7.4.2, Page 3.7-94**  
Regarding BIO-MM#67 Compensate for Impacts on Buena Vista Lake ornate shrew (BVLOS). CDFW believes that the proposed compensatory mitigation ratios for this species, particularly for xeric suitable habitat, is insufficient to reduce the loss of these habitat types to less than significant. Due to the lack of biological information regarding this species and associated habitat use, information to support this proposed ratio is inadequate and does not effectively analyze the habitat value as necessary to sustain the continued use and existence for Buena Vista Lake ornate shrew. CDFW advises xeric suitable habitat be evaluated consistent with and afforded the same habitat weight importance as mesic suitable habitats.
- S002-55 | **SEIR/EIS Comment 54: Section 3.7.5.3, Page 3.7-95**  
This section includes a proposal for compensatory mitigation for special-status plant species at a 1:1 ratio, and indicates impacts would result in less than significant impact under CEQA. Please note, mitigation ratios, and/or other measures for CESA-listed plant species will need to meet the full mitigation requirement pursuant to section 2081(b)(2) of the Fish and Game Code, the details of which will be determined through the incidental take permit process.

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### BIOLOGICAL RESOURCES AND WETLANDS TECHNICAL REPORT COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations on the Biological Resources and Wetlands Technical Report (BRWTR) prepared to evaluate the biological resources present in or potentially affected by the Fresno to Bakersfield Section Locally Generated Alternative and cited in the Draft SEIR/EIS.

**BRWTR Comment 1: Section 6.2.1.2, Pages 6-6 through 6-10**  
See SEIR/EIS comment 6.

**BRWTR Comment 2: Section 6.2.1.2, Pages 6-11 through 6-18**  
Although measures are proposed here, different mitigation measures may be required in the incidental take permit in order to meet the full mitigation requirement pursuant to Fish and Game code Section 2081(b)(2).

**BRWTR Comment 3: Table 6-7, Page 6-30**  
The table lists that 113 eucalyptus trees would be removed. Please note that eucalyptus trees are often used for nesting by the State-listed threatened Swainson's hawk as well as other special status raptors.

**BRWTR Comment 4: Section 6.2.1.3, Page 6-21**  
The biological monitor would require CDFW approval to conduct work in compliance with any CDFW issued permits for the Project.

**BRWTR Comment 5: Section 9.5.5.2, Page 9-6**  
This section states that additional avoidance and minimization measures for fully protected species would be identified through consultation with CDFW. CDFW advises consultation should take place as soon as possible to ensure the appropriate measures would be included in the final SEIR/EIS as enforceable avoidance, minimization, and mitigation measures. Absent this approach, CDFW is concerned the impacts are clearly not analyzed, that mitigation is essentially deferred, and the impacts are not effectively reduced to less than significant.

**BRWTR Comment 6: Appendix E, Page E-5**  
This Project lies within the range of the endangered and fully protected blunt-nosed leopard lizard (Fish & G. Code, § 5050, subd. (b)(1)). This species has the potential to occur in the Project area and may be affected.

Mark McLoughlin, Director of Environmental Services  
California High-Speed Rail Authority  
January 16, 2018  
Page 15

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### CONCLUSION

In summary, the Fresno to Bakersfield section of the high-speed train system continues to have the potential to result in several significant impacts to California's wildlife. Construction and operation of the high-speed train will impact specially-designated species and sensitive habitat. The implementation of the Fresno to Bakersfield section of the high-speed train will continue to require close coordination between the CDFW and the Authority to ensure that construction and operation will have a minimal impact to the public resources and the wildlife of the State of California.

CDFW appreciates the opportunity to comment on the Draft SEIR/EIS to assist the Authority in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Krista Tomlinson, Senior Environmental Scientist (Supervisor), at 559-243-4014, extension 223, or Krista.Tomlinson@wildlife.ca.gov.

Sincerely,



Julie A. Vance  
Regional Manager

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ec: Vance, Ferranti, Tomlinson, Brashear, Mitchell

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018)

### S002-1

Comment noted. The Authority recognizes CDFW's role as both a Trustee and Responsible Agency under CEQA and acknowledges that additional authorizations may be required for the project pursuant to the California Fish and Game Code.

### S002-2

The assumption for the availability and source of fill materials for the F-B LGA is consistent with the May 2014 Project in order to provide an apples-to-apples comparison of the two alternatives in the Draft Supplemental EIR/EIS. As stated in Section 2.4.1 of the Draft Supplemental EIR/EIS, "Fill materials required for the project would be obtained from commercially available sources because no borrow sites have been identified. Acquisition of additional fill material would be reflected in the design-bid contractor's bid (F-B LGA PEPD Record Set Constructability Assessment Memorandum [Oct 2016, Page 5-1, Section 5.3 Earthwork, paragraph 2].)"

Refer to page 3.9-2 of the Fresno to Bakersfield Section Final EIR/EIS (Geology, Soils, and Seismicity), which states that commercially-available, permitted aggregate resources for the at-grade portion of the alignment would be sourced from alluvial sources in the San Joaquin Valley, including Fresno (greater Fresno-Clovis metropolitan area), North Tulare County (Visalia/Tulare Area), South Tulare County (Portersville area), Bakersfield (Oildale to Tehachapi), and Palmdale. Permitted aggregate resources in these five areas equal approximately 370,000,000 tons (California Geological Survey 2012). Of these permitted resources, the Fresno to Bakersfield Section, as evaluated in the Final EIR/EIS (i.e., inclusive of the May 2014 Project), would require about 2.3 million tons, which represents approximately 0.6 percent of the permitted aggregate resources in these five areas.

The fill requirements are expected to be similar for the F-B LGA and May 2014 Project due to the total length of each alternative on embankment/at-grade or on retained fill (approximately 12.5 miles for the F-B LGA and 11.3 miles for the May 2014 Project). Therefore, the assumption of fill requirements for the Fresno to Bakersfield Section, as stated in the Final EIR/EIS, is still applicable to the F-B LGA and would not exceed the available permitted aggregate resources in the San Joaquin Valley.

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### S002-3

On Page 3.7-1, paragraph 3, the definition of "habitats of concern" is expanded to include special-status plant communities, jurisdictional waters, critical habitat, conservation areas, protected trees, and wildlife movement corridors. It is through impacts to these habitats of concern that substantial impacts to non-special-status species could occur. All of these subjects are thoroughly analyzed in Sections 3.7.2 through 3.7.4. The avoidance and minimization measures for special-status species and habitats of concern are sufficient to avoid significant impacts to non-listed species. Impacts to native fauna are also discussed in the Fresno to Bakersfield Section: Biological Resources and Wetlands Technical Report, pages 5-15 through 5-18.

### S002-4

Both CEQA Guidelines, Section 15006, and NEPA regulations Section 1502.15 and 1500.4 direct the preparer of an EIR/EIS to "describe the areas to be affected or created by the alternatives under consideration" and "shall be no longer than necessary to understand the effects of the alternatives." The preparation of an EIR/EIS requires the preparation and review of background material in order to accurately assess impacts resulting from the Project. The level of background information included in the Draft Supplemental EIR/EIS is intended to provide a specific overview of conditions in order to facilitate an apples-to-apples comparison with the May 2014 Project. This is consistent with CEQA and NEPA Guidelines as stated. Additionally, the level of detail included in the Draft Supplemental EIR/EIS is consistent with the 2014 Fresno to Bakersfield Section Final EIR/EIS.

### S002-5

Impacts to the various biological resources associated with the project are detailed in Section 3.7.4.2 of the Draft Supplemental EIR/EIS. Mitigation measures to address these impacts are summarized in Section 3.7.5 and detailed in Section 3.7.7, Mitigation Measures, of the Draft Supplemental EIR/EIS. The potential impacts of implementing biological resource mitigation measures are summarized in Section 3.7.7.5, Impacts Resulting from Implementation of Mitigation Measures, of the Fresno to Bakersfield Section Final EIR/EIS. The Project will comply with any additional mitigation measures or permit conditions required as a result of the permitting process.

### S002-6

Section 3.7.2.3 of the Draft Supplemental EIR/EIS defines the core Habitat Study Area as the project footprint plus a 250-foot buffer. Where access was granted, physical surveys were conducted within the core Habitat Study Area.

Surveys to identify biological resources within the project footprint were conducted on-site where access was available, either through public rights-of-ways or in areas where permission to enter was granted by private landowners. In areas where permission to enter was not granted, public rights-of-ways were used to visually assess inaccessible areas, wherever possible. In areas where no access was available, high-resolution aerial photo interpretation and image processing techniques were used to map the extent of biological resources (e.g., wildlife habitats, jurisdictional waters). For areas that were not surveyed on-site, biological resources were mapped conservatively to include areas potentially containing biological resources based on the judgment of the project biologists. The collective body of baseline information developed for property where no permission for access was granted, including the results of the aerial photograph interpretation survey areas, provided an adequate baseline to inform the environmental analysis and mitigation strategy. Information regarding the condition of jurisdictional waters was obtained through application of the California Rapid Assessment Method (CRAM) at select sites where Authority was able to obtain permission to enter the property. Additional information on access and survey limitations is presented in Section 4.2.4 of the F-B LGA Biological Resources and Wetlands Technical Report.

Because permission to enter was not received or ever anticipated across the entire study area, a direct comparison of field survey data could not be conducted across or between the May 2014 Project and the F-B LGA. Therefore, a conservative approach was taken to apply the same level of impact analysis for both alternatives regardless of permission to enter status. The conservative approach to impact analysis assumes presence of special-status species within their range where suitable habitat exists, which results in a direct comparison of impacts to each special 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.

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### S002-7

The baseline conditions for biological resources in the Draft Supplemental EIR/EIS were established using numerous data sources to define the existing physical conditions in the project vicinity. These data sources, which are generally referenced in the Literature Review section, are detailed in the subsequent pages of Section 3.7.2.3 and include a tremendous amount of existing information found within the California Natural Diversity Database, the California Native Plant Society Online Inventory of Rare and Endangered Plants of California, California Wildlife Habitat Relationship System, USFWS Recovery Plans, and USFWS Birds of Conservation Concern. For jurisdictional waters, many existing resources were consulted including the National Wetlands Inventory, Natural Resource Conservation Service Hydrologic Unit Code Basins dataset, National Hydrography dataset, and Holland Central Valley Vernal Pool Complexes data layer, among others. Wildlife movement corridors were identified through additional review of published technical data available from regulatory agencies.

The assimilation of existing data and literature regarding existing biological conditions in the project area was supplemented with data developed during extensive field surveys that were conducted on all parcels where the Authority was able to obtain permission to enter the property, as described in Section 3.7.2.4 of the Draft Supplemental EIR/EIS. These surveys were conducted to map, quantify, and identify the extent of biological resources within the study area.

Additional details on the literature review and survey methodology are presented in Section 4.2 of the F-B LGA Biological Resources and Wetlands Technical Report.

### S002-8

For jurisdictional waters, many existing resources were consulted, including the National Wetlands Inventory, Natural Resource Conservation Service Hydrologic Unit Code Basins dataset, National Hydrography dataset, and Holland Central Valley Vernal Pool Complexes data layer, among others. Historical aerial images were also reviewed when determining the presence and extent of hydrologic features.

### S002-9

The Authority agrees that with the commenter that special-status plants and plant communities may be at more locations in or near the project footprint than documented in the CNDDDB and CNPS on-line inventory. Thus, a conservative approach was taken in the Draft Supplemental EIR/EIS, using multiple data sources, assuming presence of special-status plant species where in areas where suitable habitat exists, and requiring pre-construction surveys. This approach is described in greater detail below.

The baseline conditions for biological resources in the Draft Supplemental EIR/EIS were established using numerous data sources to define the existing physical conditions in the project vicinity. These data sources include a tremendous amount of existing information found with the California Natural Diversity Database, the California Native Plant Society Online Inventory of Rare and Endangered Plants of California, California Wildlife Habitat Relationship (CWHR) System, USFWS Recovery Plans, and USFWS Birds of Conservation Concern. Additional information can be found in Section 3.7.2.3 of the Draft Supplemental EIR/EIS. The assimilation of existing data and literature regarding existing biological conditions in the project area was supplemented with data developed during extensive field surveys that were conducted on all parcels where the Authority was able to obtain permission to enter the property.

Special-status plant community surveys for parcels where permission to enter was granted were conducted in 2015. For areas that were not surveyed on-site, biological resources were mapped conservatively to include areas potentially containing biological resources based on the judgement of the project biologists. Presence of special-status plant species is assumed in areas where suitable habitat occurs (as identified in the CWHR or other published agency literature). The collective body of baseline information developed for property where no permission for access was granted, including the results of the aerial photograph interpretation survey areas, provided an adequate baseline to inform the environmental analysis and mitigation strategy. This approach is widely used in California on large infrastructure projects and other projects where permission to enter is limited, and provides a reasonable and consistent approach to the assessment of potential for species presence/absence (even without protocol-level surveys) and allows for a reasonable identification of potential impacts and an appropriate comparison of the May 2014 Project and the F-B LGA. The net result is a conservative approach that requires implementation of mitigation measures, including

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### S002-9

requirements to conduct protocol-level surveys prior to ground disturbance, but after the Authority has acquired the property associated with the construction and project footprint.

Pre-construction, protocol-level, and focused surveys would be conducted prior to construction and ground disturbing activities and are required as part of the Project's MMEP. Pre-construction surveys are general in nature and are conducted immediately prior to ground disturbing activities. Protocol-level surveys are surveys for special-status biological resources where agencies have an approved published survey method. These surveys would be conducted prior to construction, in advance of construction activities. Focused surveys are proposed for species for which there are no approved survey methods or where alternative methods are proposed. As provided in mitigation measures (BIO-MM#16, BIO-MM#22, BIO-MM#29, BIO-MM#30, BIO-MM#32, BIO-MM#35, BIO-MM#37, BIO-MM#40, BIO-MM#43, and BIO-MM#45), upon acquisition of land and/or permission to enter, surveys for all special-status plant and wildlife species and their habitats would be conducted before any project construction activities would occur. Surveys for special-status plant species and special-status plant communities would be conducted during appropriate blooming periods (BIO-MM#16).

### S002-10

As reflected in Section 5 of the Biological Resources and Wetlands Technical Report prepared for the F-B LGA, numerous state- and regional-level studies addressing connectivity and wildlife movement in California were referenced for the analysis of wildlife corridor effects (e.g., Penrod et al. 2001; Penrod et al. 2003; ESRP 2009; USFWS 1998; Spencer et al. 2010). These sources represent the most recent and the best commercially available science on wildlife movement and migration corridors in the state of California. Collectively, these studies identify one major linkage area that intersects the F-B LGA alignment (shown on Figure 3.7-12 of the Draft Supplemental EIR/EIS) and that could serve as a movement corridor at the following general location: Kern River linkage (connectivity choke-point linkage).

### S002-11

Although habitats affected by the Project are generally of low quality, the Draft Supplemental EIR/EIS considered all identified habitat potentially suitable regardless of its quality. Habitat was identified by applying the California Wildlife Habitat Relationship System (CWHR). CWHR provides for combining mapped land uses/land cover with the species' known geographic range to determine suitable habitats for wildlife species. This system is a widely used tool, and the approach of the Draft Supplemental EIR/EIS assumes presence of special-status wildlife species in areas where suitable habitat occurs (as identified in the CWHR or other published agency literature). This approach is widely used in California on large infrastructure projects and other projects where permission to enter is limited, and provides a reasonable and consistent approach to the assessment of potential for wildlife presence/absence (even without protocol-level surveys) and allows for a reasonable identification of potential impacts and an appropriate comparison of the May 2014 Project and the F-B LGA. The net result is a conservative approach that requires implementation of mitigation measures, including requirements to conduct protocol-level surveys prior to ground disturbance, but after the Authority has acquired the property associated with the construction and project footprint. Due to project schedule and limited access to subject properties, protocol-level surveys for special-status wildlife species were not proposed or conducted. Because protocol-level wildlife species surveys were not performed during biological resource surveys for the Draft Supplemental EIR/EIS, they have been included as mitigation measures to confirm locations of sensitive biological resources before the start of ground-disturbing activities. As provided in mitigation measures (BIO-MM#16, BIO-MM#22, BIO-MM#29, BIO-MM#30, BIO-MM#32, BIO-MM#35, BIO-MM#37, BIO-MM#40, BIO-MM#43, and BIO-MM#45), upon acquisition of land and/or permission to enter, surveys for all special-status plant and wildlife species and their habitat would be conducted before any project construction activities would occur.

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### S002-12

Refer to Standard Response FB-LGA-Response-BIO-01: Mitigation Measures (Resources, Details and Phasing, Responsibilities and Future Planning).

The California Wildlife Habitat Relationship System (CWHR) provides for mapping habitat and land uses which are crossed with the species' known geographic range to determine suitable habitats for special-status wildlife species. This system is a widely used tool, and the approach assumes presence of special-status wildlife species in areas where suitable habitat occurs (as identified in the CWHR or other published agency literature). This approach is widely used in California on large infrastructure projects and other projects where permission to enter is limited, and provides a reasonable and consistent approach to the assessment of potential for wildlife presence/absence (even without protocol-level surveys) and allows for a reasonable identification of potential impacts and an appropriate comparison of the May 2014 Project and the F-B LGA. The net result is a conservative approach that requires implementation of mitigation measures, including requirements to conduct protocol-level surveys prior to ground disturbance, but after the Authority has acquired the property associated with the construction and project footprint. Due to project schedule and limited access to subject properties, protocol-level surveys for special-status wildlife species were not proposed or conducted. Because protocol-level wildlife species surveys were not performed during biological resource surveys for the Draft Supplemental EIR/EIS, they have been included as mitigation measures to confirm locations of sensitive biological resources before the start of ground-disturbing activities. As provided in mitigation measures (BIO-MM#16, BIO-MM#22, BIO-MM#29, BIO-MM#30, BIO-MM#32, BIO-MM#35, BIO-MM#37, BIO-MM#40, BIO-MM#43, and BIO-MM#45), upon acquisition of land and/or permission to enter, surveys for all special-status plant and wildlife species and their habitat would be conducted before any project construction activities would occur.

The mitigation measures described above also prescribe management techniques if species are detected (establishment and implementation of seasonal avoidance, establishment of buffers, etc.), as well as techniques to ensure species do not access the project site (BIO-MM#7, establishment of Environmental Sensitive Areas, and BIO-MM#8, wildlife exclusion fencing). In the event that any special status species are detected in work areas, construction activities would be stopped (BIO-MM#13) and if

### S002-12

accidental "take" of special-status species occur, the appropriate regulatory agencies would be notified (BIO-MM#14). A number of existing USFWS and CDFW guidelines would be implemented in areas where preconstruction, protocol-level or focused surveys identify special-status species. These measures would avoid, minimize, and or compensate for the unavoidable impacts to special-status species or their habitat. Specifically, the measures include establishing buffers and restricting construction activities for Swainson's hawks (BIO-MM#33), avoiding and minimizing impacts to burrowing owls (BIO-MM#36), relocating small mammals (BIO-MM#38, BIO-MM#39), and minimizing impacts on San Joaquin kit fox (BIO-MM#46).

Project-specific mitigation measures would also be implemented to avoid, minimize or compensate for impacts on biological resources. These measures include salvage, relocation and/or propagation of special-status plant species (BIO-MM#17); conducting reptile and amphibian monitoring, avoidance, and relocation (BIO-MM#23); establishment of exclusion areas for breeding birds (BIO-MM#29); monitoring of raptor nests (BIO-MM#30); avoidance and minimization of impacts to mammals (BIO-MM#38, BIO-MM#41, BIO-MM#42, and BIO-MM#44); and monitoring and establishment of buffers around protected trees (BIO-MM#50).

By conducting preconstruction surveys closer to the initiation of construction, biological resources that have recently colonized the study area can be detected and will be more accurate. Additionally, pre-construction surveys provide an opportunity to survey those parcels where permission to enter was not granted by land-owners previously. Preconstruction surveys are a standard requirement for permits issued by regulatory agencies and are included, in part, in anticipation of this requirement. Preconstruction surveys are also included as mitigation measures because they could not be conducted as part of the Draft Supplemental EIR/EIS. Because preconstruction surveys would identify specific locations of biological resources that are otherwise assumed to be present in the Draft Supplemental EIR/EIS, individuals or populations could then be avoided, or effects could be minimized by implementing other Draft Supplemental EIR/EIS mitigation measures. These mitigation measures (BIO-MM#16, BIO-MM#22, BIO-MM#29, BIO-MM#30, BIO-MM#32, BIO-MM#35, BIO-MM#37, BIO-MM#40, BIO-MM#43, and BIO-MM#45) would contribute to site-specific identification of biological resource and contribute toward the mitigation of impacts identified in the Draft

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### S002-12

Supplemental EIR/EIS.

### S002-13

Although the accuracy and precision of wetland mapping is reduced somewhat by incomplete site access, as noted in the comment, incomplete site access does not preclude effective determination of the significance of impacts to wetlands or of differences among alternatives in their impacts. The Draft Supplemental EIR/EIS provides an effective, conservative analysis based on a wetland delineation. Jurisdictional waters were delineated in 2015 in accordance with U.S. Army Corps of Engineers procedures. Details on survey methodology are presented in Section 4.2 of the F-B LGA Biological Resources and Wetlands Technical Report.

Surveys to identify biological resources within the project footprint were conducted on-site where access was available, either through public rights-of-way or in areas where permission to enter was granted by private landowners. In areas where permission to enter was not granted, public rights-of-way were used to visually assess inaccessible areas, wherever possible. In areas where no access was available, high-resolution aerial photo interpretation and image processing techniques were used to map the extent of biological resources (e.g., jurisdictional waters). For areas that were not surveyed on-site, biological resources were mapped conservatively to include areas potentially containing biological resources based on the judgment of the project biologists. The collective body of baseline information developed for property where no permission for access was granted, including the results of the aerial photograph interpretation survey areas, provided an adequate baseline to inform the environmental analysis and mitigation strategy. Information regarding the condition of jurisdictional waters was obtained through application of the California Rapid Assessment Method (CRAM) at select sites where Authority was able to obtain permission to enter the property. Additional information on access and survey limitations is presented in Section 4.2.4 of the F-B LGA Biological Resources and Wetlands Technical Report.

Although the majority of the surveys for the F-B LGA were conducted up to two years prior to the publication of the Draft Supplemental EIR/EIS, the survey data is still valid as the existing conditions have not substantially changed during this period. Additionally, as newer aerial photography has become available, wetland data has been checked and re-analyzed to better estimate field conditions. Biological resource and wetlands identified during these surveys are likely still present in the study area. Because of the conservative approach, the existing conditions and impact analysis appropriately inform

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### **S002-13**

the environmental document.

Because permission to enter was not received or ever anticipated across the entire study area, a direct comparison of field survey data could not be conducted across or between the May 2014 Project and the F-B LGA. Therefore, a conservative approach was taken to apply the same level of impact analysis across all alternatives regardless of permission to enter status. 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.

### **S002-14**

The delineation of the extent of waters of the State for the F-B LGA is consistent with the approach for delineating the waters of the State for the May 2014 Project. To maintain an apples-to-apples comparison with the F-B LGA and May 2014 Project, consistency of jurisdictional limits was maintained. The extent of CDFW jurisdiction will be negotiated during acquisition of the 1602 Lake or Streambed Alteration Agreement.

### **S002-15**

For areas that were not surveyed on-site, biological resources were mapped conservatively to include areas potentially containing biological resources based on the judgment of the project biologists. The collective body of baseline information developed for property where no permission for access was granted, including the results of the aerial photograph interpretation survey areas, provided an adequate baseline to inform the environmental analysis and mitigation strategy. Because of the conservative approach, the existing conditions and impact analysis appropriately inform the environmental document. Since permission to enter was not received or ever anticipated across the entire study area, a direct comparison of field survey data could not be conducted across or between the May 2014 Project and the F-B LGA. Therefore, the 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 presence of special-status species within their range where suitable habitat exists, which results in a direct comparison of impacts to 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. As provided in mitigation measures (BIO-MM#16, BIO-MM#22, BIO-MM#29, BIO-MM#30, BIO-MM#32, BIO-MM#35, BIO-MM#37, BIO-MM#40, BIO-MM#43, and BIO-MM#45), upon acquisition of land and/or permission to enter, surveys for all special-status plant and wildlife species and their habitat would be conducted before any project construction activities would occur. Surveys for special-status plant species and special-status plant communities would be conducted during appropriate blooming periods (BIO-MM#16).

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### S002-16

Botanical surveys for the May 2014 Project were conducted in March, April, May, and June 2010 (see Section 3.7.3.3. of the Fresno to Bakersfield Section Final EIR/EIS). Botanical surveys for the F-B LGA were conducted in 2015 (refer to Section 4.2.2 of the Supplemental Biological Resources and Wetlands Technical Report). Since permission to enter was not received or ever anticipated across the entire study area, a direct comparison of field survey data could not be conducted across or between the May 2014 Project and the F-B LGA. Therefore, a conservative approach was taken to apply the same level of impact analysis across all alternative regardless of permission to enter status, which assumes presence of special-status species within their range where suitable habitat exists, resulting in a direct comparison of impacts to each special-status species. For the F-B LGA, upon acquisition of land and/or permission to enter, surveys for all special-status plant and wildlife species and their habitat would be conducted before any project construction activities would occur. Surveys for special-status plant species and special-status plant communities would be conducted during appropriate blooming periods (BIO-MM#16).

### S002-17

Figure 3.7-11 of the Draft Supplemental EIR/EIS shows the locations of all eucalyptus tree species occurring within the Special-Status Plant Study Area.

Pre-construction, protocol-level, and focused surveys would be conducted prior to construction and ground disturbing activities and required as part of the Project's MMEP. Because protocol-level wildlife species surveys were not performed during biological resource surveys for the Draft Supplemental EIR/EIS, they have been included as mitigation measures to confirm locations of sensitive biological resources before the start of ground-disturbing activities. As provided in mitigation measures (BIO-MM#16, BIO-MM#22, BIO-MM#29, BIO-MM#30, BIO-MM#32, BIO-MM#35, BIO-MM#37, BIO-MM#40, BIO-MM#43, and BIO-MM#45), upon acquisition of land and/or permission to enter, surveys for all special-status plant and wildlife species and their habitat would be conducted before any project construction activities would occur. Protocol-level surveys for Swainson's hawk (BIO-MM#32) would be performed in areas within the species range and in areas with potential habitat for these species. Pre-construction and focused surveys following the methods described in the Draft Supplemental EIR/EIS would also be conducted for birds and their nests protected under the Migratory Bird Treaty Act (BIO-MM#29) and raptors (BIO-MM#30 and BIO-MM#32).

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### S002-18

Windshield surveys were not relied on to provide a full assessment of wildlife habitats. Rather, multiple information sources and tools were used. For areas that were not surveyed on-site, biological resources were mapped conservatively to include areas potentially containing biological resources based on the judgment of the project biologists. Wildlife habitat mapping conducted in 2015 also applied the California Department of Fish and Wildlife's California Wildlife Habitat Relationship System (CWHR), which provides for mapping habitat and land uses that are crossed with the species' known geographic range to determine suitable habitats for special-status wildlife species. This system is a widely used tool, and the approach assumes presence of special-status wildlife species in areas where suitable habitat occurs (as identified in the CWHR or other published agency literature). This approach is widely used in California on large infrastructure projects and other projects where permission to enter is limited, and provides a reasonable and consistent approach to the assessment of potential for wildlife presence/absence (even without protocol-level surveys) and allows for a reasonable identification of potential impacts and an appropriate comparison of the May 2014 Project and the F-B LGA. The net result is a conservative approach that requires implementation of mitigation measures, including requirements to conduct protocol-level surveys prior to ground disturbance, but after the Authority has acquired the property associated with the construction and project footprint. Due to project schedule and limited access to subject properties, protocol-level surveys for special-status wildlife species were not proposed or conducted. Because protocol-level wildlife species surveys were not performed during biological resource surveys for the Draft Supplemental EIR/EIS, they have been included as mitigation measures to confirm locations of sensitive biological resources before the start of ground-disturbing activities. As provided in mitigation measures (BIO-MM#16, BIO-MM#22, BIO-MM#29, BIO-MM#30, BIO-MM#32, BIO-MM#35, BIO-MM#37, BIO-MM#40, BIO-MM#43, and BIO-MM#45), upon acquisition of land and/or permission to enter, surveys for all special-status plant and wildlife species and their habitat would be conducted before any project construction activities would occur.

### S002-19

In an effort to help guide landscape-level planning to maintain habitat connectivity among the patchy network of natural habitat that remains in the San Joaquin Valley, state- and regional-level studies addressing connectivity and wildlife movement in California have been conducted (Penrod et al. 2001; Penrod et al. 2003; ESRP 2009; USFWS 1998; Spencer et al. 2010). These sources represent the most recent and the best commercially available science on wildlife movement and migration corridors in the state of California. Detailed "empirical" surveys through camera trapping, track plates, radio telemetry, or complex landscape modeling were not called for in the Central Valley Biological Resources and Wetlands Survey Plan (Authority and FRA [2009] 2011a), nor were they practicable or feasible given the private property site-access/permission-to-enter issues.

Collectively, these studies identify one major linkage area that intersects the F-B LGA alignment (shown on Figure 3.7-12 of the Draft Supplemental EIR/EIS) and that could serve as a movement corridor at the following general location: Kern River linkage (connectivity choke-point linkage). The landscape surrounding the Kern River linkage is comprised of urban development, agriculture, and cropland, which provide no value for most special-status and common wildlife species except marginal dispersal and foraging habitat. Outside of identified wildlife movement areas, especially in agricultural and crop land, terrestrial wildlife movement is expected to be highly localized. Therefore, for a project of this scale, the use of these resources accurately represents the baseline conditions and was deemed appropriate to address wildlife movement on a micro and macro scale. A detailed discussion of this linkage is available in Chapter 3.7, Biological Resources and Wetlands of the Draft Supplemental EIR/EIS, as well as in Section 5.8, Wildlife Movement Corridors, of the Fresno to Bakersfield Section Biological Resources and Wetlands Technical Report.

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### S002-20

Information regarding the condition of aquatic resources for the May 2014 Project was obtained through application of the California Rapid Assessment Method (CRAM), which determined the condition of aquatic features along the alignment to be poor. Aquatic features along the F-B LGA alignment are similar in nature to those identified for the May 2014 Project, and were therefore assigned the same condition ranking. As aquatic features identified along the F-B LGA alignment are characteristically similar to those along the May 2014 Project alignment, avoidance and minimization and mitigation measures identified in Section 3.7.5 of the Draft Supplemental EIR/EIS are sufficient to reduce impacts on aquatic resources to less than significant. The measures identified in the Draft Supplemental EIR/EIS include numerous measures for avoiding, minimizing, and mitigating impacts to multiple habitats, and measures focused on aquatic habitats, including BIO-MM#47 Restore Temporary Riparian Impacts, BIO-MM#48 Restore Temporary Impacts on Jurisdictional Waters, BIO-MM#49 Monitor Construction Activities within Jurisdictional Waters, BIO-MM#61 Compensate for Permanent Riparian Impacts, and BIO-MM#63 Compensate for Permanent and Temporary Impacts on Jurisdictional Waters.

### S002-21

The Authority agrees that with the commenter that reliance on the CNDDDB as the sole basis for determining baseline conditions regarding special-status species would be insufficient. Conversely, determining baseline conditions, without considering the information provided by the CNDDDB regarding regional and local distributions and associated habitats would also be insufficient. Therefore, the Authority has established baseline conditions using data from the CNDDDB and other data sources, as described below.

The baseline conditions for biological resources in the Draft Supplemental EIR/EIS were established using numerous data sources to define the existing physical conditions in the project vicinity. These data sources, discussed in Section 3.7.2.3, include a tremendous amount of existing information found with the California Natural Diversity Database, the California Native Plant Society Online Inventory of Rare and Endangered Plants of California, California Wildlife Habitat Relationship System, USFWS Recovery Plans, and USFWS Birds of Conservation Concern. The assimilation of existing data and literature regarding existing biological conditions in the project area was supplemented with data developed during extensive field surveys that were conducted on all parcels where the Authority was able to obtain permission to enter the property. These surveys were conducted to map, quantify, and identify the extent of biological resources within the study area, according to the methods described in the Central Valley Biological Resources and Wetland Survey Plan (2009), which was developed at the request of, and transmitted to natural resources regulatory agencies (Environmental Protection Agency, U.S. Fish and Wildlife Service, National Marine Fisheries Service, U.S. Army Corp of Engineers, California Department of Fish and Game, and the Central Valley Regional Water Quality Control Board). Surveys to identify biological resources within the project footprint were conducted on-site where access was available, either through public rights-of-way or in areas where permission to enter was granted by private landowners. In areas where permission to enter was not granted, public rights-of-way were used to visually assess inaccessible areas, wherever possible. In areas where no access was available, high-resolution aerial photo interpretation and image processing techniques were used to map the extent of biological resources (e.g., special-status species habitats). For areas that were not surveyed on-site, biological resources were mapped conservatively to include areas potentially containing biological resources based on the judgment of the project biologists. The collective body of

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### S002-21

baseline information developed for property where no permission for access was granted, including the results of the aerial photograph interpretation survey areas, provided an adequate baseline to inform the environmental analysis and mitigation strategy. Additional information on access and survey limitations is presented in Section 4.2.4 of the F-B LGA Biological Resources and Wetlands Technical Report. Because of the conservative approach, the existing conditions and impact analysis appropriately inform the environmental document. Because permission to enter was not received or ever anticipated across the entire study area, a direct comparison of field survey data could not be conducted across or between the May 2014 Project and the F-B LGA. 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 presence of special-status species within their range where suitable habitat exists, which results in a direct comparison of impacts to 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.

### S002-22

Though special-status species may indeed use agricultural and urban lands for dispersal or foraging, these lands generally provide limited habitat value because of their man-made nature, their vegetation being highly simplified and of reduced cover and biomass, frequent disturbance of soil and vegetation, and high levels of stressors (such as an array of pollutants and harm of animals and disruption of their activities by humans, pets and human commensals e.g., rats)). Nonetheless, as described below, surveys would be conducted in advance of construction to minimize impacts on special-status species, including San Joaquin kit fox.

Pre-construction, protocol-level, and focused surveys would be conducted prior to construction and ground disturbing activities and required as part of the Project's MMEP. Pre-construction surveys are general in nature and are conducted immediately prior to ground disturbing activities. Protocol-level surveys are surveys for special-status biological resources where agencies have an approved published survey method. These surveys would be conducted prior to construction, in advance of construction activities. Focused surveys are proposed for species for which there are no approved survey methods or where alternative methods are proposed.

Because protocol-level wildlife species surveys were not performed during biological resource surveys for the Draft Supplemental EIR/EIS, they have been included as mitigation measures to confirm locations of sensitive biological resources before the start of ground-disturbing activities.

As provided in mitigation measures (BIO-MM#16, BIO-MM#22, BIO-MM#29, BIO-MM#30, BIO-MM#32, BIO-MM#35, BIO-MM#37, BIO-MM#40, BIO-MM#43, and BIO-MM#45), upon acquisition of land and/or permission to enter, surveys for all special-status plant and wildlife species and their habitat would be conducted before any project construction activities would occur. Surveys for special-status plant species and special-status plant communities would be conducted during appropriate blooming periods (BIO-MM#16). Protocol-level surveys for Swainson's hawk (BIO-MM#32), burrowing owls (BIO-MM#35), and San Joaquin kit fox (BIO-MM#45) would be performed in areas within the species range and in areas with potential habitat for these species.

Pre-construction and focused surveys following methods described in the Draft

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### **S002-22**

Supplemental EIR/EIS would also be conducted for special-status reptile and amphibian species (BIO-MM#22), birds and their nests protected under the Migratory Bird Treaty Act (BIO-MM#29), raptors (BIO-MM#30 and BIO-MM#32), small mammals (including Nelson's antelope squirrel Tipton kangaroo rat, and Tulare grasshopper mouse) (BIO-MM#37), special-status bat species, American badger, and ringtail (BIO-MM#40, and BIO-MM#43).

### **S002-23**

Section 3.7.3.1 (page 3.7-17) of the Draft Supplemental EIR/EIS begins by stating that 47 special-status wildlife species were identified with potential to occur in the Habitat Study Area for the May 2014 Project. As this section is intended to be a summary, not an exhaustive list, only species with moderate to high potential to occur are listed. The Final Supplemental EIS has been revised to note that 48 special-status wildlife species were identified with potential to occur in the Habitat Study Area for the May 2014 Project. The increase in the number of special-status wildlife species accounts for the addition of blunt-nosed leopard lizard. Refer Volume I Changes to the Draft Supplemental EIS (Errata) of this Final Supplemental EIS. A full list of special-status species with moderate to high potential to occur, including those mentioned, can be found in Appendices C and E of the F-B LGA Biological Resources and Wetlands Technical Report.

### **S002-24**

Additional analysis would be conducted to accurately assess impacts to additional special-status species prior to any decision regarding a shift in Project alignment.

### **S002-25**

A detailed discussion of this linkage and the references consulted is available in Section 3.7, Biological Resources and Wetlands, of the Draft Supplemental EIR/EIS, as well as in Section 5.8, Wildlife Movement Corridors, of the Fresno to Bakersfield Section Biological Resources and Wetlands Technical Report. In an effort to help guide landscape-level planning to maintain habitat connectivity among the patchy network of natural habitat that remains in the San Joaquin Valley, state- and regional-level studies addressing connectivity and wildlife movement in California have been conducted (Penrod et al. 2001; Penrod et al. 2003; ESRP 2009; USFWS 1998; Spencer et al. 2010). These sources represent the most recent and the best commercially available science on wildlife movement and migration corridors in the state of California. Collectively, these studies identify one major linkage area that intersects the F-B LGA alignment (shown on Figure 3.7-12 of the Draft Supplemental EIR/EIS) and that could serve as a movement corridor at the following general location: Kern River linkage (connectivity choke-point linkage). The landscape surrounding the Kern River linkage is comprised of urban development, agriculture, and cropland, which provide no value for most special-status and common wildlife species except marginal dispersal and foraging habitat. Outside of identified wildlife movement areas, especially in agricultural and cropland, terrestrial wildlife movement is expected to be highly localized. Therefore, for a project of this scale, the use of these resources accurately represents the baseline conditions and was deemed appropriate to address wildlife movement on a micro and macro scale.

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### S002-26

Contrary to the assertion in the comment, the analysis of potential impacts to special-status plant communities not only provide an adequate basis for determining if impacts to special-status plant communities would be significant, but provides a cautious and conservative basis for such determinations. Multiple data sources were used to identify special-status plant communities that are or could potentially be present; where access was not available plant communities were mapped conservatively based on aerial imagery, other information, and the professional judgement of biologists; and surveys for special-status plant communities would be conducted once access is available (BIO-MM#16) to confirm impacts and applicable mitigation measures. This approach to assessing impacts to special-status plant communities, which is widely used for large infrastructure projects, is further described below.

The baseline conditions for biological resources in the Draft Supplemental EIR/EIS were established using numerous data sources to define the existing physical conditions in the project vicinity. These data sources include a tremendous amount of existing information found with the California Natural Diversity Database, the California Native Plant Society Online Inventory of Rare and Endangered Plants of California, California Wildlife Habitat Relationship System, USFWS Recovery Plans, and USFWS Birds of Conservation Concern. Additional information can be found in Section 3.7.2.3 of the Draft Supplemental EIR/EIS. The assimilation of existing data and literature regarding existing biological conditions in the project area was supplemented with data developed during extensive field surveys that were conducted on all parcels where the Authority was able to obtain permission to enter the property.

Special-status plant community surveys for parcels where permission to enter was granted were conducted in 2015. For areas that were not surveyed on-site, biological resources were mapped conservatively to include areas potentially containing biological resources based on the judgment of the project biologists. Presence of special-status plant species is assumed in areas where suitable habitat occurs (as identified in the CWHR or other published agency literature). The collective body of baseline information developed for property where no permission for access was granted, including the results of the aerial photograph interpretation survey areas, provided an adequate baseline to inform the environmental analysis and mitigation strategy. This approach is widely used in California on large infrastructure projects and other projects where

### S002-26

permission to enter is limited, and provides a reasonable and consistent approach to the assessment of potential for species presence/absence (even without protocol-level surveys) and allows for a reasonable identification of potential impacts and an appropriate comparison of the May 2014 Project and the F-B LGA. The net result is a conservative approach that requires implementation of mitigation measures, including requirements to conduct protocol-level surveys prior to ground disturbance, but after the Authority has acquired the property associated with the construction and project footprint.

Preconstruction, protocol-level, and focused surveys would be conducted prior to construction and ground disturbing activities and required as part of the Project's MMEP. Preconstruction surveys are general in nature and are conducted immediately prior to ground disturbing activities. Protocol-level surveys are surveys for special-status biological resources where agencies have an approved published survey method. These surveys would be conducted prior to construction, in advance of construction activities. Focused surveys are proposed for species for which there are no approved survey methods or where alternative methods are proposed. As provided in mitigation measures (BIO-MM#16, BIO-MM#22, BIO-MM#29, BIO-MM#30, BIO-MM#32, BIO-MM#35, BIO-MM#37, BIO-MM#40, BIO-MM#43, and BIO-MM#45), upon acquisition of land and/or permission to enter, surveys for all special-status plant and wildlife species and their habitats would be conducted before any project construction activities would occur. Surveys for special-status plant species and special-status plant communities would be conducted during appropriate blooming periods (BIO-MM#16).

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### **S002-27**

The commenter has indicated that Figures 3.7-4 through 3.7-8 in the Draft Supplemental EIR/EIS are inconsistent with CDFW's data use guidelines for the California Natural Diversity Database (CNDDDB). The CNDDDB figures included in the Draft Supplemental EIR/EIS are consistent with the figures included in the Fresno to Bakersfield Section Final EIR/EIS in order to provide a comparative analysis between the May 2014 Project and the F-B LGA. However, the Authority acknowledges that the referenced figures in the Draft Supplemental EIR/EIS are at a 1:316,800 scale (i.e., 1 inch = 5 miles). Based on this scale and the CNDDDB data use guidelines (pages 9 through 12), the figures should omit species element occurrences and labels, and text should be limited to state which species are known to occur within the study area.

### **S002-28**

Comment noted. The text in this section was revised to indicate that retention/detention basins are "typically" devoid of vegetation. Refer to Volume I Changes to the Draft Supplemental EIS (Errata) of this Final Supplemental EIS. Additional information regarding the description of the retention/detention basins is provided in Section 3.2.4.2 (page 3-10) of the Final Wetlands Report prepared for the F-B LGA. Though wildlife may use these features for foraging, dispersal, etc., they do not provide high quality or permanent habitat as a result of regular maintenance activities including dredging and herbicide application.

### **S002-29**

The Authority acknowledges the commenter's assertion regarding the habitat value of canals and ditches. While the habitat value of these features is generally low due to their disturbed condition, pre-construction, protocol-level, and focused surveys would be conducted prior to construction and ground disturbing activities and required as part of the Project's MMEP. These surveys would be conducted in advance of construction activities. Because protocol-level wildlife species surveys were not performed during biological resource surveys for the Draft Supplemental EIR/EIS, they have been included as mitigation measures to confirm locations of sensitive biological resources before the start of ground-disturbing activities. As provided in mitigation measures (BIO-MM#16, BIO-MM#22, BIO-MM#29, BIO-MM#30, BIO-MM#32, BIO-MM#35, BIO-MM#37, BIO-MM#40, BIO-MM#43, and BIO-MM#45), upon acquisition of land and/or permission to enter, surveys for all special-status plant and wildlife species and their habitat would be conducted before any project construction activities would occur.

### **S002-30**

The delineation of the extent of waters of the State for the F-B LGA, as described on page 3.7-15 of the Draft Supplemental EIR/EIS, is consistent with the approach for delineating the waters of the State for the May 2014 Project. To maintain an apples-to-apples comparison between the F-B LGA and May 2014 Project in the Draft Supplemental EIR/EIS, consistency of jurisdictional limits was maintained. The extent of CDFW jurisdiction will be negotiated during acquisition of the 1602 Lake or Streambed Alteration Agreement.

### **S002-31**

An evaluation of potential effects of the project on blunt-nosed leopard lizard has been added to the Final Supplemental EIS. Refer to Volume I Changes to the Draft Supplemental EIS (Errata) of this Final Supplemental EIS. Nelson's antelope squirrel and the Buena Vista Lake ornate shrew were not referenced in this discussion because they are not addressed in the recovery plan. Nelson's antelope squirrel and the Buena Vista Lake ornate shrew are evaluated in Section 3.7.4.2 of the Draft Supplemental EIR/EIS.

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### S002-32

The landscape surrounding the Kern River linkage is comprised of urban development, agriculture, and cropland, which provide no value for most special-status and common wildlife species except marginal dispersal and foraging habitat. Outside of identified wildlife movement areas, especially in agricultural and crop land, terrestrial wildlife movement is expected to be highly localized. Therefore, for a project of this scale, the use of the resources referenced in the Draft Supplemental EIR/EIS and the Biological Resources and Wetlands Technical Report accurately represent the baseline conditions and was deemed appropriate to address wildlife movement on a micro and macro scale. A detailed discussion of this linkage is available in Chapter 3.7, Biological Resources and Wetlands, of the Draft Supplemental EIR/EIS, as well as in Section 5.8, Wildlife Movement Corridors, of the Fresno to Bakersfield Section Biological Resources and Wetlands Technical Report.

An elevated structure is proposed over the Kern River linkage. This feature would minimize disturbance to natural habitat and therefore minimize disturbance to wildlife usage of this linkage. The F-B LGA would include avoidance and minimization measures that would provide wildlife crossing opportunities (i.e., at the Kern River) and minimize disturbance to natural habitat (and therefore minimize disturbance to wildlife usage). Development of the elevated structure at the Kern River would prevent interference with the movement of wildlife through the Kern River corridor and therefore would result in a less-than-significant impact associated with wildlife movement.

The construction period impacts to wildlife movement associated with the May 2014 Project and the F-B LGA are temporary and would only result in a partial barrier to wildlife movement. During project construction, mitigation measures would be implemented as described in the Draft Supplemental EIR/EIS (see Section 3.7.5.2) to reduce potential construction period impacts to wildlife movement and linkages. These measures state that wildlife movement linkages would be kept free of all equipment, storage materials, construction materials, and any significant potential impediments and that ground-disturbing activities would be minimized within the wildlife linkages during nighttime hours to the extent practicable. Mitigation Measures BIO-MM#51 and BIO-MM#52 would serve to reduce construction and project period impacts to wildlife movement. Implementation of these measures would substantially reduce the level of potential impact.

### S002-32

### S002-33

The habitat types and species utilization identified in the Draft Supplemental EIR/EIS are consistent with the habitat types and species utilization identified in the Fresno to Bakersfield Section Final EIR/EIS in order to provide an apples-to-apples comparison with the May 2014 Project. Adjusting habitat type suitability definitions for special-status species potentially occurring within the F-B LGA study area could result in findings for the May 2014 Project that are different than those documented in the Fresno to Bakersfield Section Final EIR/EIS; therefore, the habitat type suitability definitions have not been modified in this Final Supplemental EIS.

Preconstruction, protocol-level, and focused surveys would be conducted prior to construction and ground disturbing activities in all un-surveyed habitats and required as part of the Project's MMEP. As provided in mitigation measures (BIO-MM#16, BIO-MM#22, BIO-MM#29, BIO-MM#30, BIO-MM#32, BIO-MM#35, BIO-MM#37, BIO-MM#40, BIO-MM#43, and BIO-MM#45), upon acquisition of land and/or permission to enter, surveys for all special-status plant and wildlife species and their habitat would be conducted before any project construction activities would occur. Surveys for special-status plant species and special-status plant communities would be conducted during appropriate blooming periods (BIO-MM#16).

A full discussion of impacts to special-status plant species resulting from the May 2014 Project, including changes to hydrology, can be found in Section 3.7.5.3 of the Fresno to Bakersfield Final EIR/EIS.

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### **S002-34**

Alkali desert scrub habitat does not occur in the F-B LGA study area, as shown in Figure 3.7-3 of the Draft Supplemental EIR/EIS, and therefore is not discussed. Analysis of the disruption of breeding opportunities is included in Section 3.7.4.1 of the Draft Supplemental EIR/EIS (page 3.7-74) as a potential indirect impact, referred to as "decreased reproductive success."

### **S002-35**

The existing setting for the Preferred Alternative is more fully described in Section 3.7.4.2 of the Fresno to Bakersfield Section Final EIR/EIS. The May 2014 Project is the complementary portion of the Preferred Alternative consisting of the portion of the BNSF Alternative from Poplar Avenue to Hageman Road and the Bakersfield Hybrid from Hageman Road to Oswell Street. While the May 2014 Project does cross agricultural land, it was not specifically mentioned within the context of special-status plant communities.

### **S002-36**

Comment noted. A 1602 Lake and Streambed Alteration Agreement will be acquired prior to project construction to authorize project effects to CDFW waters. The Project will comply with all conditions of the permit.

### **S002-37**

As described in the Draft Supplemental EIR/EIS Section 3.7.2.2, "CEQA Significance Criteria," and the wildlife movement corridors subsections of Section 3.7.2.3, "Definitions and Background Review Criteria, and Section 3.7.2.4, "Field Surveys," potential effects on wildlife movement were evaluated for the entire alignment, including where at-grade embankment is proposed. Dedicated wildlife structures are not proposed for the F-B LGA as most of the alignment would be permeable to wildlife, and impermeable sections are limited in length, contain features that allow would allow wildlife to cross the alignment, or both. There are no continuous stretches of the alignment at grade for more than 3 miles without elevated structures and culverts, which would allow wildlife to cross the alignment, and most of the Project design consists of large lengths of grade separated viaduct and bridge crossings along the length of the alignment with only short lengths of ground level track. Between Shafter and Bakersfield, where the alignment is primarily on embankment, numerous obstacles and multiple major barriers to wildlife movement already exist (e.g., major water delivery canals, SR 99) and habitat for species dependent on natural vegetation is very limited in extent and fragmented. Conversely, where the Project crosses the Kern River Corridor, which has been identified as a regional linkage for wildlife movement, it is on viaduct and would not impede wildlife movement. The construction period impacts to wildlife movement associated with the May 2014 Project and the F-B LGA are temporary and would only result in a partial barrier to wildlife movement. During project construction, mitigation measures would be implemented as described in the Draft Supplemental EIR/EIS (see Section 3.7.5.2) to reduce potential construction period impacts to wildlife movement and linkages. These measures state that wildlife movement linkages would be kept free of all equipment, storage materials, construction materials, and any significant potential impediments and that ground-disturbing activities would be minimized within the wildlife linkages during nighttime hours to the extent practicable. Mitigation Measures BIO-MM#51 and BIO-MM#52 would serve to reduce construction and project period impacts to wildlife movement. Implementation of these measures would substantially reduce the level of potential impact; therefore, as described in Section 3.7.5.2 of the Draft Supplemental EIR/EIS, under CEQA, the level of significance of construction period impacts to wildlife movement corridors after mitigation were identified as less than significant.

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### **S002-38**

Figure 3.7-1 of the Draft Supplemental EIR/EIS (page 3.7-11) depicts the spatial distribution of the various study areas used to evaluate biological resources for the Project. Figure 3.7-9 (pages 3.7-42 through 3.7-52) depicts the special-status plant communities with potential to support special-status plant species occurring in the Special-Status Plant Study Area.

### **S002-39**

The habitat types and species utilization identified in the Draft Supplemental EIR/EIS are consistent with the habitat types and species utilization identified in the Fresno to Bakersfield Section Final EIR/EIS in order to provide an apples-to-apples comparison with the May 2014 Project. Adjusting habitat type suitability definitions for special-status species potentially occurring within the F-B LGA study area could result in findings for the May 2014 Project that are different than those documented in the Fresno to Bakersfield Section Final EIR/EIS; therefore, the habitat type suitability definitions have not been modified in the Draft Supplemental EIR/EIS.

### **S002-40**

Table 3.7-7 only includes vegetation communities that are present within the F-B LGA study area and does not reflect every habitat association for each species. Because permission to enter was not received or ever anticipated across the entire study area, a direct comparison of field survey data could not be conducted across or between the May 2014 Project and the F-B LGA. Therefore, a conservative approach was taken to apply the same level of impact analysis for both alternatives regardless of permission to enter status. The conservative approach to impact analysis assumes presence of special-status species within their range where suitable habitat exists, which results in a direct comparison of impacts to 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.

### **S002-41**

Section 3.7.4.2 of the Final Supplemental EIS has been revised to assess potential impacts to blunt-nosed leopard lizard, because the known range of blunt-nosed leopard lizard overlaps with the F-B LGA project area. Refer to Volume I Changes to the Draft Supplemental EIS (Errata) of this Final Supplemental EIS. Within the F-B LGA action area, suitable habitat for blunt-nosed leopard lizard is limited to the Kern River corridor. Outside of the corridor along the Kern River, however, potentially suitable land cover is limited in area, discontinuous, and consists primarily of maintained rights-of-way and vacant urban lots. There is no potential for blunt-nosed leopard lizard to occur in these fragmented and disturbed areas. They are in developed or in a few cases agricultural landscapes, and isolated from larger patches of potentially suitable land cover by these developed and agricultural land uses, and by multiple major barriers including the Calloway, Friant-Kern, and Lerdo canals, and State Route 99.

Construction of the project across the Kern River Corridor has the potential to cause harm or mortality of blunt-nosed leopard lizards, and burrow disturbance or abandonment. Therefore, mitigation measures BIO-MM#26 through BIO-MM#28 and BIO-MM#57 of the Fresno to Bakersfield Section Final EIR/EIS would be implemented at the Kern River Crossing. These measures would require protocol-level surveys (BIO-MM#26) and phased pre-construction surveys no more than 30 days prior to ground-disturbing activities associated with each construction phase (BIO-MM#27). Additionally, BIO-MM#28 identifies avoidance measures that should be implemented in the event that phased pre-construction surveys identify blunt-nosed leopard lizard or signs of the species. Finally, BIO-MM#57 would be implemented as compensatory mitigation to offset the permanent and temporary loss of suitable habitat for the blunt-nosed leopard lizard. As a result, injury and mortality of blunt-nosed leopard lizards would be avoided.

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### S002-42

"Additional CDFW Riparian" is riparian habitat not identified as waters of the U.S. but that may be subject to Fish and Game Code section 1602.

CDFW jurisdiction for the F-B LGA is consistent with jurisdiction asserted by CDFW for the May 2014 Project. To maintain an apples-to-apples comparison between the F-B LGA and May 2014 Project, consistency of jurisdictional limits have been maintained. If CDFW wishes to adjust their jurisdictional limits, this will be negotiated during acquisition of the 1602 Lake or Streambed Alteration Agreement. For the purposes of the Draft Supplemental EIR/EIS, the limits have not been adjusted.

### S002-43

To maintain consistency with the Fresno to Bakersfield Section Final EIR/EIS and to provide an apples-to-apples comparison, impacts have been evaluated based on the project footprint. The Draft Supplemental EIR/EIS includes a thorough project description based on a sufficient level of design to fully identify and disclose potential environmental impacts. Design level impacts will be evaluated and presented as part of the 1602 Lake and Streambed Alteration Agreement Application Package.

### S002-44

Refer to Standard Response FB-LGA-Response-BIO-01: Mitigation Measures (Resources, Details and Phasing, Responsibilities and Future Planning).

Comment noted. The comment is on text that describes why the project would not impact the Metropolitan Bakersfield Habitat Conservation Plan (MBHCP). The similarity of the mitigation ratios proposed for the F-B LGA and the MBHCP is one of the reasons given for the F-B LGA not impacting the MBHCP. The mitigation ratios used in the Incidental Take Permit for the F-B LGA will be determined during consultation with CDFW but will not be less than the mitigation proposed in the EIR/EIS.

### S002-45

Per the commenter's request, "further" has been added to the text. Refer to Volume I Changes to the Draft Supplemental EIS (Errata) of this Final Supplemental EIS.

As noted in the text, the determination of permanent versus temporary effects are based on the duration of impact and ability for plants to reestablish. Therefore, areas that sustain continuous impacts were determined to be direct permanent impacts.

### S002-46

The degree of indirect impact, as noted in the document, is based entirely on the activity footprint. Operational activities will occur in a much smaller footprint than construction and therefore, have a lesser degree of impact.

### S002-47

Per the commenter's request "herbicide application" has been added to the list of activities that may affect special-status wildlife species. Refer to Volume I Changes to the Draft Supplemental EIS (Errata) of this Final Supplemental EIS.

### S002-48

Per the commenter's request, "further" has been added to the text. Refer to Volume I Changes to the Draft Supplemental EIS (Errata) of this Final Supplemental EIS.

### S002-49

Per the commenter's request, "further" has been added to text. Refer to Volume I Changes to the Draft Supplemental EIS (Errata) of this Final Supplemental EIS.

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### **S002-50**

Per the commenter's request, "further" has been added to the text. Refer to Volume I Changes to the Draft Supplemental EIS (Errata) of this Final Supplemental EIS.

### **S002-51**

Comment noted. However, CDFW jurisdiction for the F-B LGA is consistent with jurisdiction asserted by CDFW for the May 2014 Project. To maintain an apples-to-apples comparison with the F-B LGA and May 2014 Project, jurisdictional limits have been consistently maintained. If CDFW wishes to adjust their jurisdictional limits, this will be negotiated during acquisition of the 1602 Lake or Streambed Alteration Agreement. For the purposes of this Final Supplemental EIS, the limits have not been adjusted.

### **S002-52**

Dedicated wildlife structures are not proposed for the F-B LGA as most of the alignment would be permeable to wildlife, and impermeable sections are limited in length, contain features that allow would allow wildlife to cross the alignment, or both. There are no continuous stretches of the alignment at grade for more than 3 miles without elevated structures and culverts, which would allow wildlife to cross the alignment, and most of the Project design consists of large lengths of grade separated viaduct and bridge crossings along the length of the alignment with only short lengths of ground level track. Between Shafter and Bakersfield, where the alignment is primarily on embankment, numerous obstacles and multiple major barriers to wildlife movement already exist (e.g., major water delivery canals, SR 99) and habitat for species dependent on natural vegetation is very limited in extent and fragmented. Conversely, where the Project crosses the Kern River Corridor, which has been identified as a regional linkage for wildlife movement, it is on viaduct and would not impede wildlife movement.

### **S002-53**

An evaluation of potential effects of the project on blunt-nosed leopard lizard has been added to the Final Supplemental EIS. Refer to Volume I Changes to the Draft Supplemental EIS (Errata) of this Final Supplemental EIS.

### **S002-54**

The BVLOS is listed as endangered under the federal Endangered Species Act. Therefore, the proposed compensatory mitigation ratios for BVLOS were developed in coordination with the USFWS as part of the FESA Section 7 process. (This species is not a State listed species.) Available information on the ecology of BVLOS strongly indicates that habitats along a body of water with mesic conditions and dense understory vegetation are of high value to the species, whereas the adjacent more xeric areas lacking dense vegetation, although they may be used by individual shrews at some times of the year, provide fewer resources, less consistently, and therefore have less value as habitat. (See USFWS 2011.) The greater amount of mitigation for loss of mesic habitat than for loss of xeric habitat proposed in the Draft Supplemental EIR/EIS is consistent with this difference in habitat value. In contrast, the equal weighting suggested in the comment would not be consistent with the difference in habitat value as supported by the best available scientific information regarding the ecology of this species.

### **S002-55**

Comment noted. A Section 2081 Incidental Take Permit will be acquired prior to project construction to authorize project effects to State listed species.

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### **S002-56**

#### **BRWTR Comment 1: Section 6.2.1.2, Pages 6-6 through 6-10**

The baseline conditions for biological resources in the Draft Supplemental EIR/EIS were established using numerous data sources to define the existing physical conditions in the project vicinity. These data sources, discussed in Section 3.7.2.3, include a tremendous amount of existing information found with the California Natural Diversity Database, the California Native Plant Society Online Inventory of Rare and Endangered Plants of California, California Wildlife Habitat Relationship System, USFWS Recovery Plans, and USFWS Birds of Conservation Concern. For jurisdictional waters, many existing resources were consulted including the National Wetlands Inventory, Natural Resource Conservation Service Hydrologic Unit Code Basins dataset, National Hydrography dataset, and Holland Central Valley Vernal Pool Complexes data layer, among others. Wildlife movement corridors were identified through additional review of published technical data available from regulatory agencies.

The assimilation of existing data and literature regarding existing biological conditions in the project area was supplemented with data developed during extensive field surveys that were conducted on all parcels where the Authority was able to obtain permission to enter the property. These surveys include but are not limited to wetland delineations and wildlife habitat mapping surveys. These surveys were conducted to map, quantify, and identify the extent of biological resources within the study area, according to the methods described in the Central Valley Biological Resources and Wetland Survey Plan (2009), which was developed at the request of, and transmitted to natural resources regulatory agencies (Environmental Protection Agency, U.S. Fish and Wildlife Service, National Marine Fisheries Service, U.S. Army Corp of Engineers, California Department of Fish and Game, and the Central Valley Regional Water Quality Control Board). The Authority met with the regulatory agencies to receive verbal input regarding the methods on November 5, 2009. Over the course of next couple of months the Authority received formal and informal comments from regulatory agencies. Most of the comments and suggested revisions received were incorporated into the subsequent revision to the Central Valley Biological Resources and Wetland Survey Plan (Authority 2011a).

Special-status plant community surveys were conducted in 2015. Wildlife habitat mapping was also conducted in 2015 utilizing the California Wildlife Habitat Relationship

### **S002-56**

System (CWHR).

#### **BRWTR Comment 2: Section 6.2.1.2, Pages 6-11 through 6-18**

The Project will comply with any additional mitigation measures developed as part of the 2081 Incidental Take Permitting process.

#### **BRWTR Comment 3: Table 6-7, Page 6-30**

It is well known that Swainson's hawks will nest in eucalyptus trees; however, these trees are not protected by City ordinance. In addition, pre-construction surveys for nesting birds will be conducted prior to tree removal (BIO-MM#32). If nesting Swainson's hawk are identified during these surveys, BIO-MM#33 and BIO-MM#34 will be implemented.

#### **BRWTR Comment 4: Section 6.2.1.3, Page 6-21**

BIO-MM#1 (Section 3.7.7.1 of the Fresno to Bakersfield Section Final EIR/EIS) states that "The Project Biologist(s), Regulatory Specialist(s)(Waters), Project Botanist(s) and/or the Project Biological Monitor(s) may require special approval from the USFWS and CDFW to implement certain mitigation measures. In these circumstances, they are referred to as agency-approved biologist(s)." BIO-MM#1 is described in the F-B LGA Biological Resources and Wetlands and Technical Report, Section 6.2.1.3, page 6-21.

#### **BRWTR Comment 5: Section 9.5.5.2, Page 9-6**

The Project proposes to acquire both a Section 1602 Lake and Streambed Alteration Agreement and a Section 2081 Incidental Take Permit for the F-B LGA. Consultation with CDFW will occur at that time, and the Project will be required to comply with any additional permit conditions resulting from the permitting process.

#### **BRWTR Comment 6: Appendix E, Page E-5**

Within the F-B LGA action area, suitable habitat for blunt-nosed leopard lizard is limited to the Kern River corridor. Outside of the corridor along the Kern River, however,

## Response to Submission S002 (Julie Vance, California Department of Fish and Wildlife, January 16, 2018) - Continued

### S002-56

potentially suitable land cover is limited in area, discontinuous, and consists primarily of maintained rights-of-way and vacant urban lots. There is no potential for blunt-nosed leopard lizard to occur in these fragmented and disturbed areas. They are in developed or in a few cases agricultural landscapes, and isolated from larger patches of potentially suitable land cover by these developed and agricultural land uses, and by multiple major barriers including the Calloway, Friant-Kern, and Lerdo canals, and State Route 99.

### S002-57

The Authority takes this comment into consideration and will continue to coordinate with private and public sectors throughout project development. The Authority agrees that early coordination with agencies helps to develop a thorough environmental document and assists in streamlining the environmental process. The Project proposes to acquire both a Section 1602 Lake and Streambed Alteration Agreement and a Section 2081 Incidental Take Permit for the F-B LGA. Consultation with CDFW will continue through that process.

# Submission S003 (Hussein Senan, California Department of Transportation, January 22, 2018)

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

## DEPARTMENT OF TRANSPORTATION

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Making Conservation a  
California way of life!


January 16, 2018

California High Speed Rail Authority  
Fresno to Bakersfield Project Section  
Draft Supplemental EIR/EIS Comment  
770 L Street, Suite 600  
Sacramento, CA 95814

- S003-1 | The California Department of Transportation (Caltrans) acknowledges the California High Speed Rail Authority (Authority) on completing the Fresno to Bakersfield Project Section Draft Supplemental Environmental Impact Report/Environmental Impact Statement (DSEIR/EIS) and providing the document for public comment in November 2017. Caltrans also looks forward to a continued partnership with the Authority in assisting in the delivery of this High Speed Train (HST) project.
- Caltrans has reviewed DSEIR/EIS as it pertains to the State Highway System (SHS). While there have been many specific questions and comments related to the DSEIR/EIS, Caltrans would like to bring to the Authority's attention the following key concerns.
- S003-2 | The DSEIR/EIS will need to sufficiently identify any site specific mitigation measures proposed for impacts which may occur within the SHS. Caltrans as a Responsible Agency under CEQA is required to complete a Notice of Determination for Capital Improvement Projects with impacts to the SHS. Based on the level of detail contained within the DSEIR/EIS, additional environmental studies may be required to be completed prior to the final EIR/EIS to ensure the approval of the Project Report, required for work within the SHS.
- S003-3 | The Authority project team has conducted focus meetings with Caltrans to identify the impacts and potential mitigation strategies at locations where the HST alignment interacts with the SHS. While the communication has helped us better understand the impacts to the SHS and provided us the opportunity for input to the mitigation required, the concepts will need further review by Caltrans. Of specific concern is the proposed interchange at State Route 204 and F Street. Caltrans and the Authority have been working together to develop an acceptable solution at this location. The alternative provided in the DSEIR/EIS does not reflect the latest agreed upon alternative. Caltrans is committed to work with the Authority to further develop the alternative. A Project Report will be required to obtain Caltrans' approval for modification to the SHS.
- S003-4 | The proposed work shown in the DSEIR/EIS within Caltrans right of way will not be approved by the DSEIR/EIS. Final approval will be through the Caltrans Project Report process. Caltrans and the Authority will continue to work together to address the work proposed to the SHS and within the Caltrans right of way.

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to enhance California's economy and livability"

California High Speed Rail Authority  
January 16, 2018  
Page 2

- S003-5 | As discussed in the letter dated February 11, 2010 to the Authority by former director Randell Iwasaki, the HST project should not preclude future expansion of the SHS to its ultimate concept. Additional information will be needed to assess compatibility of proposed mitigation with ultimate concept of the facility at all the HST crossing location.
- The document should identify additional right of way needs for basins and/or pump plants at locations where the drainage concept or patterns are being proposed to be modified.
- The vertical clearances established for the various HST crossings should recognize both temporary and permanent clearances such that it does not preclude the Department from future widening over the HST system.
- S003-6 | The attached table includes detailed comments that will aid in development of the HST project. Please communicate to Caltrans any significant or additional modifications to the SHS within the Fresno to Bakersfield HST Project.
- Caltrans is committed to partnering with the Authority to determine the planned mitigation of impacts to the SHS. We look forward to reviewing the associated technical reports and documentation that are expected prior to the approval of the Fresno to Bakersfield HST Project Report.
- If you have any questions or need additional information, please contact me at (559) 243-3586.
- Sincerely,  
  
HUSSEIN SENAN  
Caltrans HSR Acting Project Manager – District 6
- Attachment  
Detailed comments
- c: Diana Gomez, HSR Central Valley Regional Director  
Garth Fernandez, Caltrans District 6 PPM  
Sharri Bender Ehlert, Caltrans District 6 Director  
Terry Ogle, HSR Director of Design & Construction

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## Submission S003 (Hussein Senan, California Department of Transportation, January 22, 2018)- Continued

High Speed Train (HST) Project - Fresno to Bakersfield Section  
Draft Supplemental Environmental Impact Report/Environmental Impact Statement (DSEIR/EIS)  
Caltrans Comments - January 16, 2018

General Comment	#	Proposed work including mitigations shall be based on a forecasted Design Year of 20 years from the year of construction.
Volume I: 3.2 Transportation	Section 3.2.3.2 Fresno to Bakersfield Locally Generated Alternative City of Shafter Page 3.2-7	8. <i>Riverside Street</i> : Riverside will cross over Santa Fe Highway, not SR 43.
Volume I: 3.2 Transportation	Section 3.2.3.2 Fresno To Bakersfield Locally Generated Alternative Page 3.2-16	<p><i>Figure 3.2-4 Kern County Study Intersections</i>:</p> <ul style="list-style-type: none"> <li>• Snow Road interchange shown in the figure has not been discussed with Caltrans and is not included in the existing Freeway Agreement. An interchange at this location would not meet interchange spacing requirements.</li> <li>• Please show proposed WB to SB loop on-ramp at 7th Standard Road IC.</li> </ul>
Volume II: Appendix 2-A Road Crossings	Table 2-A-1 Road Crossings for the F-B LGA	<p><i>No. 6</i>: Existing condition is connection to SR 43, not North Shafter Avenue.</p> <p><i>No. 13</i>: SR 43 is west of the BNSF alignment at this location. Riverside will cross over Santa Fe Highway, not SR 43.</p>
Volume III Sections A & E: Alignment Plans, Roadway and Roadway Structure Plans	TT-B0008 to TT-B0010, CV-T1002 and CV- R1001	Please include discussion of the maintenance responsibilities and the proposed drainage modifications where the proposed retaining wall will be constructed along the boundary between BNSF Railroad and SR 43.
Volume III Section C: HSR Elevated Structures Plans	ST-11016 ST-11018 ST-11019 ST-11036	<p>The location of bents and construction of the viaduct shall not preclude construction of the following:</p> <ul style="list-style-type: none"> <li>• The Ultimate Transportation Corridor (UTC) for State Route 99.</li> <li>• The ultimate SR 99/Olive Drive interchange.</li> <li>• The ultimate SR 99/204 Airport Drive interchange.</li> <li>• The UTC for State Route 178.</li> </ul> <p>Based on the information provided in the document, it cannot be determined if required clearances and standards have been met. All proposed improvements within Caltrans R/W shall meet the Highway Design Manual (HDM) standards or have approved Design Exceptions.</p>

## Submission S003 (Hussein Senan, California Department of Transportation, January 22, 2018)- Continued

High Speed Train (HST) Project - Fresno to Bakersfield Section  
Draft Supplemental Environmental Impact Report/Environmental Impact Statement (DSEIR/EIS)  
Caltrans Comments - January 16, 2018

Volume III Section E: Roadway and Roadway Structure Plans	CV-T1001 CV-T7002	<b>Poplar Avenue Overhead:</b> The location of bents for the proposed structure - and future structure - shall not preclude the UTC for State Route 43. Based on the information provided in the document it cannot be determined if required clearances and standards have been met. All proposed improvements within Caltrans R/W shall meet HDM standards or have approved Design Exceptions.
Volume III Section E: Roadway and Roadway Structure Plans	CV-T1015 through CV-T1029	<b>Proposed interchange modification at State Route 99 and 7<sup>th</sup> Standard Road:</b> The proposed interchange concept is acceptable. However, based on the information provided in the document it cannot be determined if required clearances and standards have been met. All proposed improvements within Caltrans R/W shall meet HDM standards or have approved Design Exceptions. In addition, pursuant to Caltrans' HDM, section 503.2, the geometric features of all interchanges or modifications to interchanges must be approved by Caltrans Project Delivery Coordinator and documented prior to approval of the project.
Volume III Section E: Roadway and Roadway Structure Plans	CV-T1017 & CV-T1031	Discuss drainage concept changes including potential needs for greater storage capacity.
Volume III Section E: Roadway and Roadway Structure Plans	CV-T1017, CV-T7007	<b>7<sup>th</sup> Standard Road Viaduct:</b> The location of bents and construction of the viaduct shall not preclude construction of the ultimate SR 99/7th Standard Road interchange. Based on the information provided in the document it cannot be determined if required clearances and standards have been met. All proposed improvements within Caltrans R/W shall meet HDM standards or have approved Design Exceptions.
Volume III Section E: Roadway and Roadway Structure Plans	CV-T1030 through CV-T1039	<b>Proposed interchange at State Route 204 and F Street:</b> Caltrans and the Authority have been working together to develop an acceptable solution at this location. The alternative provided in this DSEIR/EIS does not reflect the latest agreed upon alternative. Caltrans is committed to work with the Authority to develop the alternative. Final approval will be at the Project Report approval. Caltrans has requested that separate southbound off-ramps be provided for eastbound and westbound F Street traffic. Additionally the southbound to westbound exit shall be a slip ramp design.
Volume III Section E: Roadway and Roadway Structure Plans/ Transportation Technical Report (TTR)	CV-R1004/Section 7	Roadway plan indicates intersection modifications at Shafter Ave and Tulare Ave with SR 43. Section 7 of the TTR does not include a discussion of mitigation measure at these two locations. Please include an evaluation of the need for turning lanes at the proposed Tulare Ave and SR 43 intersection.

## Submission S003 (Hussein Senan, California Department of Transportation, January 22, 2018)- Continued

High Speed Train (HST) Project - Fresno to Bakersfield Section  
Draft Supplemental Environmental Impact Report/Environmental Impact Statement (DSEIR/EIS)  
Caltrans Comments - January 16, 2018

Volume III Section E: Roadway and Roadway Structure Plans	CV-R1010	The plan indicates roadway closure at the east side of E Los Angeles/SR 43 intersection. Please discuss how this will affect the State Highway System.
Volume III Section E: Roadway and Roadway Structure Plans	CV-T1031 CV-T1032 CV-T1033	Provide intersection and queuing analysis and evaluation for all signalized intersections.
Transportation Technical Report		Figure 6.1-17b is missing from the TTR
Transportation Technical Report	Section 6.1.1	All intersections must be evaluated in accordance with Traffic Operations Policy Directive 13-02 Intersection Control Evaluation (ICE).
Transportation Technical Report	Appendix W	Please verify percentage of Trucks input parameter for the Basic Freeway Segment and Ramps and Ramp Junctions Worksheets. Recalculate LOS based on verified percentage of Trucks.
Transportation Technical Report Section 5.5.1.2	Page 5-20	Data for the segment SR 204, north of 24th Street is missing from the report.
Transportation Technical Report Section 6.2.4.2 Section 6.4.4.2	Page 6-15 Page 6-63	Figures 6.2-13a, 6.2-13b, 6.4-13a, and 6.4-13b are missing from report. Also please include existing ADTs for Roadway Segments in Table 5.5-1 (north and south of SR 204 interchange).

## Response to Submission S003 (Hussein Senan, California Department of Transportation, January 22, 2018)

### **S003-1**

The commenter states that Caltrans has reviewed the Draft Supplemental EIR/EIS. The Authority takes this comment into consideration and will continue to coordinate with private and public sectors during the environmental review process and subsequent phases of the project (right-of-way acquisition, regulatory permitting, final design, etc.).

### **S003-2**

The continued coordination between the Authority's project team and Caltrans will include preparation of the Project Report(s), Design Exception Fact Sheets, and other technical studies as appropriate, with an ultimate goal of obtaining Caltrans approval for modifications to the State Highway System (SHS). Future expansion of the SHS and Caltrans highway design standards will be considered and incorporated into the final design of SHS modifications for the selected HSR alternative, as appropriate. Caltrans standard processes for obtaining approval on non-standard design features will be followed if exceptions to design standards are determined to be necessary. Right-of-way for drainage basins will be accommodated in the project footprint, as appropriate. Pumping plants will be incorporated into the project, as applicable.

### **S003-3**

The commenter notes that the Authority has worked with Caltrans to identify potential impacts and mitigation strategies for locations where the HSR interacts with the State Highway System. The commenter expresses specific concern about the proposed interchange at SR 204 and F Street and states that the description of this interchange in the Supplemental EIR/EIS is not the latest description agreed upon between the Authority and Caltrans. In their comment letter, Caltrans has not expressed that the SR 204/F Street interchange is deficient or unacceptable; therefore, the interchange presented in the Draft Supplemental EIR/EIS remains unchanged and has not been revised in the Final Supplemental EIS.

Coordination with Caltrans regarding this interchange is ongoing. The Authority takes this comment into consideration and will continue to coordinate with private and public sectors during the environmental review process and subsequent phases of the project (right-of-way acquisition, regulatory permitting, final design, etc.). A Project Report will be developed in order to obtain Caltrans' approval as necessary for modifications to the State Highway System.

### **S003-4**

The commenter states that Caltrans will not provide approval based on the Draft Supplemental EIR/EIS. The commenter states that approval can be obtained through the Caltrans Project Report process. The commenter again reiterates the commitment of Caltrans to working with the Authority to address the modifications proposed to the State Highway System within Caltrans right-of-way. The Authority takes this comment into consideration and will continue to coordinate with private and public sectors during the environmental review process and subsequent phases of the project (right-of-way acquisition, regulatory permitting, final design, etc.). A Project Report will be developed in order to obtain Caltrans' approval as necessary for modifications to the State Highway System.

## Response to Submission S003 (Hussein Senan, California Department of Transportation, January 22, 2018) - Continued

### **S003-5**

The F-B LGA of the HSR project is being designed to allow for the future widening (to the ultimate transportation concept) and to provide standard vertical clearances over all State Highway System facilities. The California HSR System has considered the Caltrans Route Concept Reports, which identify the long-term plan for the State Highway System.

The Authority is in the process of refining its design information, and has prepared plans with guidance for addressing drainage impacts (e.g., Stormwater Management Plan). Drainage features are included in the Preliminary Engineering for Project Definition plans for which environmental impact analysis has been performed.

### **S003-6**

The California High-Speed Rail Authority Board is actively engaged with the California Department of Transportation District 6 regarding the potential impacts of the Fresno to Bakersfield Section of the high-speed rail project on the State Highway System. Consideration and resolution of Caltrans comments on the Supplemental EIR/EIS is ongoing.

# Submission S004 (Susan Bransen, California Transportation Commission, December 28, 2017)

Fresno - Bakersfield (2014 June+) - RECORD #239 DETAIL	
Status :	Action Pending
Record Date :	1/8/2018
Response Requested :	No
Affiliation Type :	State Agency
Interest As :	State Agency
Submission Date :	12/28/2017
Submission Method :	Letter
First Name :	Susan
Last Name :	Bransen
Professional Title :	Executive Director
Business/Organization :	California Transportation Commission
Address :	1120 N Street, MS-52
Apt./Suite No. :	
City :	Sacramento
State :	CA
Zip Code :	94273-0001
Telephone :	916-654-4245
Email :	
Email Subscription :	
Cell Phone :	
Add to Mailing List :	Yes
Stakeholder Comments/Issues :	
EIR/EIS Comment :	Yes
Official Comment Period :	Yes
Attachments :	CTC_Draft_Supplemental_F-B_122817.pdf (211 kb) 239_Bransen_email_122817_attachment.pdf (211 kb)

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STATE OF CALIFORNIA

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## CALIFORNIA TRANSPORTATION COMMISSION

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December 28, 2017

California High-Speed Rail Authority  
"Fresno to Bakersfield Project Section Draft Supplemental EIR/EIS Comment"  
770 L Street, Suite 620 MS-1  
Sacramento, CA 95814

RE: Draft Supplemental Environmental Impact Report / Environmental Impact Statement for the  
Fresno to Bakersfield Project Section (F-B)

The California Transportation Commission (Commission), as a Responsible Agency, received the Draft Supplemental Environmental Impact Report / Environmental Impact Statement for the Fresno to Bakersfield Project Section (F-B). The project considers a new alternative that extends from Poplar Avenue north of Shafter, continues on retained fill through the City of Shafter, and transitions to an elevated structure (viaduct) in the City of Bakersfield. The project is known as the Fresno to Bakersfield Locally Generated Alternative (F-B LGA).

S004-1 | The Commission has no comments with respect to the project purpose and need, the alternatives studied, the impacts evaluated, and the evaluation methods used. The Commission should be notified as soon as the environmental process is finalized since project funds cannot be allocated for project design, right of way or construction until the final environmental document is complete. Once the final environmental process is concluded, the Commission will consider the environmental impacts in determining whether to approve the project for future consideration of funding.

S004-2 | Upon completion of the environmental process, please ensure the Commission is notified in writing whether the selected alternative identified in the final environmental document is consistent with the appropriate Regional Transportation Plan. In the absence of such assurance of consistency, the project may be considered inconsistent and Commission staff will base its recommendations to the

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## Submission S004 (Susan Bransen, California Transportation Commission, December 28, 2017) - Continued

California High-Speed Rail Authority  
"Fresno to Bakersfield Project Section Draft Supplemental EIR/EIS Comment"  
December 28, 2017  
Page 2

S004-2 |

Commission on that determination. The Commission may deny funding to a project which is no longer eligible due to scope modifications or other reasons.

If you have any questions, please contact Jose Oseguera, Assistant Deputy Director, at (916) 653-2094.

Sincerely,

*Match W.* FOR

SUSAN BRANSEN  
Executive Director

c: Phil Stolarski, Chief (Division of Environmental Analysis), California Department of Transportation

STATE OF CALIFORNIA  
CALIFORNIA TRANSPORTATION COMMISSION  
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Supplemental EIR/EIS Comment  
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## Submission S004 (Susan Bransen, California Transportation Commission, December 28, 2017) - Continued

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### CALIFORNIA TRANSPORTATION COMMISSION

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December 28, 2017

California High-Speed Rail Authority  
"Fresno to Bakersfield Project Section Draft Supplemental EIR/EIS Comment"  
770 L Street, Suite 620 MS-1  
Sacramento, CA 95814

RE: Draft Supplemental Environmental Impact Report / Environmental Impact Statement for the  
Fresno to Bakersfield Project Section (F-B)

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The Commission has no comments with respect to the project purpose and need, the alternatives studied, the impacts evaluated, and the evaluation methods used. The Commission should be notified as soon as the environmental process is finalized since project funds cannot be allocated for project design, right of way or construction until the final environmental document is complete. Once the final environmental process is concluded, the Commission will consider the environmental impacts in determining whether to approve the project for future consideration of funding.

Upon completion of the environmental process, please ensure the Commission is notified in writing whether the selected alternative identified in the final environmental document is consistent with the appropriate Regional Transportation Plan. In the absence of such assurance of consistency, the project may be considered inconsistent and Commission staff will base its recommendations to the

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CALIFORNIA TRANSPORTATION COMMISSION

California High-Speed Rail Authority  
"Fresno to Bakersfield Project Section Draft Supplemental EIR/EIS Comment"  
December 28, 2017  
Page 2

Commission on that determination. The Commission may deny funding to a project which is no longer eligible due to scope modifications or other reasons.

If you have any questions, please contact Jose Oseguera, Assistant Deputy Director, at (916) 653-2094.

Sincerely,

*Mitch W.* FOR

SUSAN BRANSSEN  
Executive Director

c: Phil Stolarski, Chief (Division of Environmental Analysis), California Department of Transportation

## Submission S004 (Susan Bransen, California Transportation Commission, December 28, 2017)- Continued



### April Durham

**From:** Oseguera, Jose@CATC <Jose.Oseguera@catc.ca.gov>  
**Sent:** Wednesday, January 10, 2018 5:05 PM  
**To:** Matala, Jamey@HSR  
**Cc:** Alley, Lisa@HSR; Weiss, Mitchell@CATC  
**Subject:** RE: CTC Draft Supplemental Environmental Impact Report/Environmental Impact Statement for FB

Hello Jamey,

Thank you for your note. The letter is only to advise the recipient that if a future allocation is being sought, the entity seeking the allocation will need to provide the Final Environmental Document for review and approval.

Since the California High-Speed Rail Authority is not requesting a future allocation, no further action is required. The letter will be considered rescinded.

Again, thank you for bringing your concern to our attention.

Best regards,

**Jose L. Oseguera**  
California Transportation Commission  
1120 N Street, MS-52  
Sacramento, CA 95814  
Office: (916) 653-2094 | Fax: (916) 653-2134  
[Jose.Oseguera@catc.ca.gov](mailto:Jose.Oseguera@catc.ca.gov)

**From:** Matala, Jamey@HSR [<mailto:jamey.matala@hsr.ca.gov>]  
**Sent:** Wednesday, January 10, 2018 4:25 PM  
**To:** Oseguera, Jose@CATC <[Jose.Oseguera@catc.ca.gov](mailto:Jose.Oseguera@catc.ca.gov)>  
**Cc:** Alley, Lisa@HSR <[Lisa.Alley@hsr.ca.gov](mailto:Lisa.Alley@hsr.ca.gov)>  
**Subject:** re: CTC Draft Supplemental Environmental Impact Report/Environmental Impact Statement for FB

Hello Jose,

As discussed over the phone the Authority does not present to the CTC Commission for Project funding and therefore would not have to provide final environmental documents to the Commission for approval of future project funding. The letter (attached) to the Authority from the Commission on December 28, 2017, should either be rescinded or modified.

Thank You,

**Jamey Matala**  
Assistant Chief Financial Officer  
California High-Speed Rail  
770 L Street, Suite 620  
Sacramento, CA 95814  
w: 916-669-6626  
c: 916-291-0645  
[jamey.matala@hsr.ca.gov](mailto:jamey.matala@hsr.ca.gov)



**CONFIDENTIALITY NOTICE:** This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

## Response to Submission S004 (Susan Bransen, California Transportation Commission, December 28, 2017)

### S004-1

In an email dated January 10, 2018 the California Transportation Commission rescinded its comment letter.

## Submission S005 (Michael@DOC Johnson, Department of Conservation's Division of Oil, Gas, and Geothermal Resources (Division), November 16, 2017)

### Fresno - Bakersfield (2014 June+) - RECORD #187 DETAIL

**Status :** Action Pending  
**Record Date :** 12/15/2017  
**Response Requested :**  
**Affiliation Type :** State Agency  
**Interest As :** State Agency  
**Submission Date :** 11/16/2017  
**Submission Method :** Project Email  
**First Name :** Michael@DOC  
**Last Name :** Johnson  
**Professional Title :**  
**Business/Organization :** Department of Conservation's Division of Oil, Gas, and Geothermal Resources (Division)  
**Address :**  
**Apt./Suite No. :**  
**City :** Bakersfield  
**State :** CA  
**Zip Code :** Kern  
**Telephone :** (661) 334-3667  
**Email :** Michael.Johnson@conservation.ca.gov  
**Email Subscription :**  
**Cell Phone :**  
**Add to Mailing List :**  
**Stakeholder Comments/Issues :**  
 Good afternoon

S005-1

alignments and associated facilities (station, MOIF, etc.) to streamline the identification of changes to the well/production facility inventory.

Thank you

Michael Johnson

Associate Oil and Gas Engineer

California Department of Conservation

Division of Oil, Gas, and Geothermal Resources

Bakersfield, CA

(661) 334-3667

<http://www.conservation.ca.gov/dog>

**EIR/EIS Comment :** Yes

**Official Comment Period :** Yes

S005-1,1 The Department of Conservation's Division of Oil, Gas, and Geothermal Resources (Division) has received the Draft Supplemental EIR/EIS for this project. The Division supervises the drilling, maintenance, and plugging and abandonment of oil, gas, and geothermal wells, and maintenance of oil and gas production facilities in the state of California.

The project's Locally Generated Alternative (LGA) does result in changes to the well/production facility inventory that falls within the project boundaries as compared to the May 2014 Project. Additionally, it is possible new wells have been drilled since that time near the 2014 project alignment outside of the LGA.

I am requesting shapefiles for the Preferred Alternative and LGA

## Response to Submission S005 (Michael@DOC Johnson, Department of Conservation's Division of Oil, Gas, and Geothermal Resources (Division), November 16, 2017)

### S005-1

The commenter indicates that the F-B LGA would result in changes to the well/production inventory that falls within the project footprint as compared to the May 2014 Project. The commenter also suggests that it is possible new wells have been drilled near the May 2014 Project alignment since completion of the original analysis. The commenter goes on to request the shapefiles for both footprints to identify changes to the well/production facility inventory.

The requested shapefiles are included as part of the Administrative Record for the Draft Supplemental EIR/EIS and are available from the Authority upon request. All source documents used in the preparation of the Supplemental EIR/EIS are available by request, pursuant to the Public Records Act. Instructions and further information about Public Records Act requests can be found on the Authority's website.

The Authority encourages written requests submitted via email to [records@hsr.ca.gov](mailto:records@hsr.ca.gov). To send a written request via postal mail:  
California High-Speed Rail Authority  
Marie Hoffman/Public Records Officer  
770 L Street, Suite 620 MS1  
Sacramento, CA, 95814

Written requests should include details that will enable staff to identify and locate the requested records. The request should include a telephone number where the person making the request can be reached to discuss the request if the Authority needs additional information to locate records.

Within 10 days from the date the request is received, the Authority will make a determination on the request and will notify the requester of its decision. If the determination cannot be made within 10 days due to unusual circumstances as defined in Government Code section 6253.1, the Authority will notify the requesting person of the reasons for the delay and the date when the determination will be issued. No such notice shall specify a date that results in an extension of more than 14 days.

Additionally, the Authority prepared BFSSA WBS 7.3.3.1 Oil Well Map Book: Fresno to Bakersfield Locally Generated Alternative (F-B LGA) Compared to the May 2014 Project, dated October 5, 2016. Memo from Amanda Rose, Regional Consultant, to

### S005-1

Melisa Bittancourt, Regional Manager, and Oliver Martinez, Regional Engineer. The Oil Well Map Book includes the location of oil wells located within and in proximity to the footprints of both the May 2014 Project and F-B LGA footprints and is also available on request from the Authority.

## Submission S006 (Scott Morgan, State Clearinghouse, January 17, 2018)

### Fresno - Bakersfield (2014 June+) - RECORD #443 DETAIL

**Status :** Action Pending  
**Record Date :** 1/24/2018  
**Response Requested :** No  
**Affiliation Type :** State Agency  
**Interest As :** State Agency  
**Submission Date :** 1/17/2018  
**Submission Method :** Letter  
**First Name :** Scott  
**Last Name :** Morgan  
**Professional Title :** Director  
**Business/Organization :** State Clearinghouse  
**Address :** 1400 Tenth Street  
**Apt./Suite No. :**  
**City :** Sacramento  
**State :** CA  
**Zip Code :** 95812-3044  
**Telephone :** 916-445-0613  
**Email :**  
**Email Subscription :**  
**Cell Phone :**  
**Add to Mailing List :** Yes  
**Stakeholder Comments/Issues :**  
**EIR/EIS Comment :** Yes  
**Official Comment Period :**  
**Attachments :** 443\_Morgan\_letter\_011718\_Original.pdf (355 kb)

S006-1



Edmund G. Brown Jr.  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit



Ken Alex  
Director

January 17, 2018

Mark McLoughlin  
California High Speed Rail Authority  
770 L St, Suite 620 MS-1  
Sacramento, CA 95814

Subject: California High-Speed Train Project Fresno to Bakersfield Section  
SCH#: 2009091126

Dear Mark McLoughlin:

The State Clearinghouse submitted the above named Supplemental EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on January 16, 2018, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan  
Director, State Clearinghouse

Enclosures  
cc: Resources Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044  
TEL (916) 445-0613 FAX (916) 323-3018 www.epr.ca.gov

## Submission S006 (Scott Morgan, State Clearinghouse, January 17, 2018) - Continued

### Document Details Report State Clearinghouse Data Base

**SCH#** 2009091126  
**Project Title** California High-Speed Train Project Fresno to Bakersfield Section  
**Lead Agency** High Speed Rail Authority, California

**Type** SIR Supplemental EIR

**Description** The Fresno to Bakersfield Project Section EIR/EIS considered several alternatives between the cities of Fresno and Bakersfield and ultimately identified a Preferred Alternative from the Fresno high-speed rail station to the Bakersfield high-speed rail station to Oswell St in Bakersfield. The California High Speed Rail Authority Board certified the Fresno to Bakersfield Section Final EIR/EIS in May 2014. The Preferred Alternative identified by the Authority Board consists of portions of the BNSF alternatives in combination with the Corcoran Bypass, Allensworth Bypass, and Bakersfield Hybrid alternatives. In Bakersfield, the preferred alternative included a station that would be constructed at the corner of Truxtun and Union Ave/SR 204, as well as maintenance of infrastructure facility that would lie along the alignment extending from downtown Fresno to approx 7th Standard Road. Therefore, the board did not approve a location for the portion of the alignment that extended into Bakersfield. The FRA, in August 2014, approved the entire preferred alternative from the Fresno Station to Oswell St in Bakersfield.

#### Lead Agency Contact

**Name** Mark McLoughlin  
**Agency** California High Speed Rail Authority  
**Phone** 916-403-6934 **Fax**  
**email**  
**Address** 770 L St, Suite 620 MS-1  
**City** Sacramento **State** CA **Zip** 95814

#### Project Location

**County** Fresno, Tulare, Kern, Kings  
**City** Fresno, Hanford, Wasco, Bakersfield  
**Region**  
**Lat / Long**

**Cross Streets**  
**Parcel No.** various  
**Township** various **Range** variou **Section** variou **Base** various

#### Proximity to:

**Highways** Hwy 43, others  
**Airports** Several Local Airports  
**Railways** UPRR, BNSF, SJVRR  
**Waterways** Kings, Tule, & Kern Rivers; Cross & Poso Creeks  
**Schools** Multiple  
**Land Use** Various (urban[industrial, commercial and residential], rural residential, agricultural, and undeveloped)

**Project Issues** Water Quality; Water Supply; Wetland/Riparian; Growth Inducing; Landuse; Cumulative Effects; Other Issues; Aesthetic/Visual; Minerals; Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Economics/Jobs; Fiscal Impacts; Flood Plain/Flooding; Geologic/Seismic; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation

**Reviewing Agencies** Resources Agency; Department of Boating and Waterways; Central Valley Flood Protection Board; Department of Conservation; Department of Fish and Wildlife, Region 4; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 6; Caltrans, Division of Transportation Planning; California Department of Education; Office of Emergency Services, California; Department of Food and Agriculture; Department of Housing and Community Development;

Note: Blanks in data fields result from insufficient information provided by lead agency.

### Document Details Report State Clearinghouse Data Base

Department of General Services; Air Resources Board; Air Resources Board, Transportation Projects; State Water Resources Control Board; Division of Drinking Water; State Water Resources Control Board, Division of Financial Assistance; State Water Resources Control Board, Division of Water Quality; State Water Resources Control Board, Division of Water Rights; Regional Water Quality Control Bd., Region 5 (Fresno); Department of Toxic Substances Control; California Energy Commission; Native American Heritage Commission; Public Utilities Commission; State Lands Commission; Other Agency(ies); California Department of Health and Human Services

**Date Received** 11/09/2017 **Start of Review** 11/09/2017 **End of Review** 01/16/2018

Note: Blanks in data fields result from insufficient information provided by lead agency.

## Submission S006 (Scott Morgan, State Clearinghouse, January 17, 2018) - Continued

STATE OF CALIFORNIA  
 1-16-18  
 EDMUND G. BROWN JR., Governor

CALIFORNIA STATE LANDS COMMISSION  
 100 Howe Avenue, Suite 100-South  
 Sacramento, CA 95825-8202

Governor's Office of Planning & Research  
 JAN 16 2018  
 STATE CLEARINGHOUSE  
 January 16, 2018

JENNIFER LUCCHESI, Executive Officer  
 (916) 574-1800 Fax (916) 574-1810  
 California Relay Service TDD Phone 1-800-735-2929  
 from Voice Phone 1-800-735-2922

Established in 1938

Contact Phone: (916) 574-1890  
 Contact FAX: (916) 574-1885

File Ref: SCH #2009091126

Mark McLoughlin  
 Attn: Draft Supplemental EIR/EIS for the Fresno to Bakersfield Project Section  
 California High-Speed Rail Authority  
 770 L Street, Suite 620 MS-1  
 Sacramento, CA 95814

VIA REGULAR & ELECTRONIC MAIL (Fresno\_Bakersfield@hsr.ca.gov)

**Subject:** Draft Supplemental Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Fresno to Bakersfield Project Section of the California High-Speed Rail Project, Fresno, Kings, Tulare and Kern Counties

Dear Mr. McLoughlin:

The California State Lands Commission (Commission) staff has reviewed the subject Draft Supplemental EIR/EIS for the Fresno to Bakersfield Project Section of the California High-Speed Rail Project (Project), which is being prepared by the California High-Speed Rail Authority (Authority). The Authority, as the public agency proposing to carry out the Project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), and the Federal Railroad Administration is the lead agency under the National Environmental Policy Act (42 U.S.C. § 4321 et seq.). The Commission is a trustee agency for projects that could directly or indirectly affect sovereign land and their accompanying Public Trust resources or uses. Additionally, because the Project involves work on sovereign land, the Commission will act as a responsible agency.

**Commission Jurisdiction and Public Trust Lands**

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6009, subd. (c); 6009.1; 6301; 6306). All tidelands and submerged lands, granted or

S006-2

Mark McLoughlin

Page 2

January 16, 2018

ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust Doctrine.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. On navigable non-tidal waterways, including lakes, the State holds fee ownership of the bed of the waterway landward to the ordinary low-water mark and a Public Trust easement landward to the ordinary high-water mark, except where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present-day site inspections.

Staff understands that a portion of the proposed Project is within the Commission's jurisdiction on State-owned sovereign land in the Kern River, near City of Bakersfield, Kern County and will require a General Lease – Public Agency Use. A lease application (File Reference No. W 27137) received September 22, 2017, is currently incomplete (see attached letter to Larry Bellucci, Senior Right of Way Agent, October 20, 2017). Please contact Cheryl Hudson, Public Land Management Specialist (see contact information below), with responses to outstanding questions in the incomplete letter dated October 20, 2017, or for updated information on the status of the application.

#### Project Description

The Authority proposes the rail alignment from Shafter (Poplar Avenue) to the City of Bakersfield (Oswell Street). From the Project Description, Commission staff understands that the Project would include a "viaduct or elevated structure" crossing the Kern River. The Project's objectives and needs include the following:

- Develop a high-speed train system (guideways, structures, stations, traction-powered substations, and maintenance facilities) that coordinates with the State's existing transportation network, including intercity rail and bus lines, regional commuter rail lines, urban rail and bus transit lines, highways, and airports
- Provide electric-powered high-speed rail service between major urban centers, and that connects to airports, mass transit, the highway network in the south San Joaquin Valley, and the northern and southern portions of the system
- Provide the specific rail alignment from city of Shafter to City of Bakersfield crossing the Kern River (under Commission's jurisdiction) for the "Fresno to Bakersfield Locally Generated Alternative" in the Draft Supplemental EIR/EIS. (The Authority approved the Final EIR/EIS in May 2014, with the Preferred Alternative, and deferred alignment in this Bakersfield area)

## Submission S006 (Scott Morgan, State Clearinghouse, January 17, 2018) - Continued

Mark McLoughlin

Page 3

January 16, 2018

- Compare the Fresno to Bakersfield Locally Generated Alternative with the May 2014 Final EIR/EIS Project Alternative

### Environmental Review

Commission staff requests that the Authority consider the following comments on the Project's Supplemental EIR/EIS.

### General Comments

- S006-3 | 1. Detailed Project Description: Commission staff requests that specific Project details, such as engineering plans, for the "viaduct and elevated structure" crossing over the Kern River (Draft Supplemental EIR/EIS, Appendix 3.8-A) be included in the Supplemental EIR/EIS and Alignment Plans, Section C, HSR Elevated Structures Plans. Commission staff will need to rely on this analysis to determine the extent of the Commission's jurisdiction and evaluate the associated impacts and mitigation measures.
- S006-4 | 2. Mitigation Measures: The Commission staff requests that all mitigation measures are either presented as specific, feasible, enforceable obligations, or they are presented as formulas containing "performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way" (State CEQA Guidelines, §15126.4, subd. (a)).
- S006-5 | Biological Resources and Wetlands
3. Underwater Noise: If pile driving is needed to construct the elevated structures in or over the Kern River, staff requests that additional analysis be included in the Supplemental EIR/EIS explaining possible impacts from using vibratory or impact hammers. If it is expected that underwater noise would be generated, then an underwater noise analysis should be included in the MND to assess impacts on special-status species (see Draft Supplemental EIR/EIS page 3.4-C-4).
- S006-6 | Hydrology and Water Resources
4. Mitigation Measure HWR-MM#1 Construction: Commission staff requests that floodplain protection measures be identified and implemented during construction activities in the Kern River floodplain. Please also identify if cofferdams, spill prevention plans (Mitigation Measure HMW IAMM#7 on Draft Supplemental EIR/EIS page 3.10-10) or offsite refueling requirements would be included during construction (Draft Supplemental EIR/EIS page 3.8-44).
- S006-7 | Hazardous Materials and Wastes
5. Mitigation Measure HMW IAMM#5 Undocumented Contamination: Please consult with Commission staff when preparing construction management plans for disturbance of undocumented contaminated soil in the Kern River (Draft Supplemental EIR/EIS page 3.10-40).

Mark McLoughlin

Page 4

January 16, 2018

S006-8

### Recreation

6. Public Access to Waterways: To the extent feasible, Commission staff requests that the Kern River remain accessible to the public for recreational uses (Supplemental Draft EIR/EIS page 3.8-19) throughout the construction period when cofferdams (Supplemental Draft EIR/EIS page 3.8-28), barges, or other features are placed in the Kern River. Promoting public access to and using California's navigable waters is a mandate of the California Constitution (art. X, § 4), a condition of statehood in the Act of Admission (9 Stat. 452), and a responsibility of State agencies pursuant to the Public Trust Doctrine.

S006-9

Thank you for the opportunity to comment on the Draft Supplemental EIR/EIS for the Project. As a responsible and trustee agency, the Commission will need to rely on the Final Draft Supplemental EIR/EIS for issuing a new lease as specified above and, therefore, we request that you consider our comments prior to certifying the Supplemental EIR/EIS.

Please send copies of future Project-related documents, including electronic copies of the Final Supplemental EIR/EIS, Mitigation and Monitoring Plan, Notice of Determination, CEQA Findings and, if applicable, Statement of Overriding Considerations when they become available. Please refer questions concerning environmental review to Afifa Awan, Environmental Scientist, at (916) 574-1891 or via e-mail at [Afifa.Awan@slc.ca.gov](mailto:Afifa.Awan@slc.ca.gov). For questions concerning Commission leasing jurisdiction, please contact Cheryl Hudson, Public Land Management Specialist, at (916) 574-0732 or via e-mail at [Cheryl.Hudson@slc.ca.gov](mailto:Cheryl.Hudson@slc.ca.gov).

Sincerely,

  
Cy R. Oggins, Chief

Division of Environmental Planning  
and Management

### Attachments

October 20, 2017, Incomplete Letter Requesting Additional Application Information

cc: Office of Planning and Research  
L. Bellucci, Authority  
A. Awan, Commission  
P. Huber, Commission  
C. Hudson, Commission

## Submission S006 (Scott Morgan, State Clearinghouse, January 17, 2018) - Continued

STATE OF CALIFORNIA  
EDMUND G. BROWN JR., Governor

CALIFORNIA STATE LANDS COMMISSION  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202

JENNIFER LUCCHESI, Executive Officer  
(916) 574-1800 FAX (916) 574-1810  
California Relay Service From TDD Phone 1-800-735-2929  
from Voice Phone 1-800-735-2922

Governor's Office of Planning & Research  
JAN 16 2018  
STATE CLEARINGHOUSE  
Established in 1938  
October 20, 2017

Contact Phone: (916) 574-0732  
Contact FAX: (916) 574-1835

File Ref: W 27137

Larry Bellucci  
Senior Right of Way Agent  
California High-Speed Rail Authority  
770 L Street, Suite 800  
Sacramento, CA 95814

SUBJECT: General Lease – Public Agency Use for Construction of a New  
Electric-Powered High-Speed Train System From Fresno to  
Bakersfield, Fresno and Kings Counties

Dear Mr. Bellucci:

Staff reviewed your application to determine if it contains sufficient information to be determined complete as provided by law and the Commission's application requirements.

According to the information provided, the application is incomplete and the following needs to be provided:

1. The application identifies that the proposed Project crosses Kings River, Cole Slough, and Dutch John Cut under the Commission's jurisdiction. However, the map in the Notice of Determination ([http://www.hsr.ca.gov/Programs/Environmental\\_Planning/final\\_fresno\\_bakersfield.html](http://www.hsr.ca.gov/Programs/Environmental_Planning/final_fresno_bakersfield.html)) shows that the Project also crosses Tule River, Poso Creek, and Kern River. Therefore, Commission staff requests a map that shows the final rail routes for this Project from the city of Fresno to the city of Bakersfield crossing all water bodies so that the Commission staff can better assess Commission's jurisdiction for leasing these areas to the Applicant for the proposed Project.
2. Please state and show on a map the Project alternatives that were selected as the final Project design on lands under the Commission's jurisdiction.

Larry Bellucci  
Page 2  
October 20, 2017

3. Please provide the Compensatory Mitigation Plan being referred to in response (Comment # S006-6) to the Commission comment letter for the Revised Draft Environmental Impact Report/Statement EIR/EIS that was submitted on September 20, 2012.
4. Please provide most recent biological or cultural surveys completed for Project areas under the Commission's jurisdiction.
5. Please provide National Marine Fisheries Service's Biological Opinion for the proposed Project that would help the Commission staff understand possible work on lands under the Commission's jurisdiction like piles in the wetted channels.
6. Because the Mitigation and Monitoring Program (MMP) ([http://www.hsr.ca.gov/docs/programs/fresno-bakers-eir/brdmtg\\_050614\\_Item5\\_6\\_ExB\\_Mitigation\\_Monitoring\\_Reporting\\_Program.pdf](http://www.hsr.ca.gov/docs/programs/fresno-bakers-eir/brdmtg_050614_Item5_6_ExB_Mitigation_Monitoring_Reporting_Program.pdf)) is for the entire project and not just lands under the Commission's jurisdiction, the Commission staff requests that the Applicant provide a spreadsheet (with recommended columns below) with information on all mitigation measures identified in the MMP. Commission staff would need to rely on this information to analyze all possible mitigation measures that should be applied to carrying out Project-related activities on lands under the Commission's jurisdiction. This information would also be needed to create exhibits for the staff report when recommending approving any lease to the Commission for this Project as done so for a different projects at [http://archives.slc.ca.gov/Meeting\\_Summaries/2013\\_Documents/04-26-13/Items\\_and\\_Exhibits/C72.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2013_Documents/04-26-13/Items_and_Exhibits/C72.pdf) and [http://archives.slc.ca.gov/Meeting\\_Summaries/2016\\_Documents/10-13-16/Items\\_and\\_exhibits/63.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2016_Documents/10-13-16/Items_and_exhibits/63.pdf).

Please include the following columns in the spreadsheet:

- A. List of all Significant Impacts (No.)
  - Please list all significant impacts in the MMP even if they are not applicable to lands under the Commission's jurisdiction.
- B. Impact Name
  - Please list all impact names in the MMP even if they are not applicable to the lands under the Commission's jurisdiction.
- C. Impact Page #s in the Final EIR/EIS
- D. Less than Significant Impacts (prior to mitigation - if they have mitigation)
  - Please list all less than significant impacts in the MMP even if they are not applicable to the lands under the Commission's jurisdiction.

## Submission S006 (Scott Morgan, State Clearinghouse, January 17, 2018) - Continued

Larry Bellucci  
Page 3  
October 20, 2017

E. Significant and Unavoidable Impacts (Yes/No)

- Please explain if the impact would be less than significant or unavoidable after applying the proposed mitigation measures.

F. Mitigation Measure #s

- Please list all mitigation measures in the MMP even if they are not applicable to the lands under the Commission's jurisdiction.

G. Commission Jurisdiction (Yes/No)

- Please state yes or no for all the impacts and mitigation measures in the MMP even if they are not applicable to lands under the Commission's jurisdiction. This would help the Commission staff determine all the mitigation measures that would need to be applied to lands under the Commission's jurisdiction.

H. Mitigation Measure Page #s in the FEIR/EIS

- This should provide page numbers and links to the final environmental documents where it explains how that specific mitigation would help reduce possible environmental impacts on lands under the Commission's jurisdiction.

I. Notes/Comments (e.g., why it is under Commission's jurisdiction or not)

- This should explain why each mitigation measure would or would not be applicable to lands under the Commission's jurisdiction so the Commission staff can document why certain mitigation measures were not part of the Responsible Agency MMP.

7. Please explain how climate change might impact areas under the Commission's jurisdiction and how these impacts would be handled for the life of the Project.

Although not necessary to deem the application complete, the following information is required by the Division of Environmental Planning Management to continue processing the application:

1. As a Responsible and Trustee Agency, the Commission will need to rely on the EIR/EIS for issuing any lease; therefore, we request that the Applicant confirm that all the documents are up to date at the following link [http://www.hsr.ca.gov/Programs/Environmental\\_Planning/final\\_fresno\\_bakersfield.html](http://www.hsr.ca.gov/Programs/Environmental_Planning/final_fresno_bakersfield.html).

Larry Bellucci  
Page 4  
October 20, 2017

2. Please provide most current bridge designs or construction plans crossing water bodies under the Commission's jurisdiction.

3. Please provide name, contract information, and status of permits with other agencies for areas under the Commission's jurisdiction.

4. Please provide results of coordination with the California Fish and Wildlife or other agencies for proposed activities under the Commission's jurisdiction.

5. Please provide results of all coordination with the Native American tribes for lands under the Commission's jurisdiction.

6. Please be advised that DEPM staff costs will be approximately \$3,000 for preparing the exhibit(s) for the staff report. This cost would be minimized if the Applicant provides the information requested to assist in writing the staff report for recommending approving the Project to the Commission.

7. Please ensure that the following MMP provision is included into the lease documents:

"Lessee agrees to be bound by and fully carry out, implement, and comply with all mitigation measures and reporting obligations identified as Lessee's, or Responsible Party's responsibility as set forth in the Mitigation Monitoring Program (MMP) attached hereto as Exhibit C and by this reference made a part of this Lease, or as modified by Lessor as permitted by law."

Upon receipt and review of the above information, you will be notified if your application is complete. Once your application has been deemed complete, the California State Lands Commission must act on your application as provided by law.

You are encouraged to submit the information listed above at the earliest possible time in order for us to process your application in a timely manner.

Please contact me at (916) 574-0732 if you have any questions on this matter.

Sincerely,

Original Signed by

Cheryl Hudson  
Public Land Management Specialist

cc: Accounting

## Response to Submission S006 (Scott Morgan, State Clearinghouse, January 17, 2018)

### **S006-1**

The Authority takes this comment into consideration and will continue to coordinate with private and public sectors throughout project development. The Authority agrees that early coordination with agencies helps to develop a thorough environmental document and assists in streamlining the environmental process.

### **S006-2**

The Authority takes this comment into consideration and will continue to coordinate with private and public sectors throughout project development. The Authority agrees that early coordination with agencies helps to develop a thorough environmental document and assists in streamlining the environmental process.

### **S006-3**

Section 3.7, Biological Resources and Wetlands, Section 3.15, Parks, Recreation, and Open Space, and Section 3.16, Aesthetics and Visual Resources of the Draft Supplemental EIR/EIS evaluate the potential impacts associated with the elevated crossing of the Kern River. As indicated by the commenter, the design plans for the Kern River crossing are included in Volume III, Section C, Sheets ST-J1027, ST-J1028, and ST-J1029. The plan set included in Volume III of the Draft Supplemental EIR/EIS represents Preliminary Engineering for Project Definition. The Authority will continue to refine the design and will coordinate with affected stakeholders, agencies, and jurisdictions as the design is finalized.

### **S006-4**

The commenter requests that all mitigation measures are either presented as specific, feasible, enforceable obligations, or they are presented as formulas containing performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way (State CEQA Guidelines, §15126.4, subd.(a)).

CEQA requires the Authority to analyze the potential impacts of the HSR (specifically for the May 2014 Project and F-B LGA in the Draft Supplemental EIR/EIS) and identify enforceable mitigation for each significant effect of the project and to mitigate or avoid the significant effects on the environment by adopting feasible mitigation measures as part of the project (Public Resources Code Section 21001.2). NEPA requires that all relevant, reasonable mitigation measures be identified, even if they are outside the jurisdiction of the lead agency or the cooperating agencies, and thus would not be committed to as part of the Record of Decision (RODs) of these agencies (40 CFR 1502.16(h), 1505.2(c)). Based on CEQA and NEPA requirements, the Draft Supplemental EIR/EIS mitigation measures are sufficient.

Refer to Section 3.1 of the Draft Supplemental EIR/EIS which summarizes the Authority's and FRA's approach to avoid and minimize potential impacts of the F-B LGA through planning, and thoughtful design, informed by decisions made at the conclusion of the Statewide Program EIR/EIS process, including the adopted mitigation strategies. The Draft Supplemental EIR/EIS, throughout Chapter 3, summarizes mitigation measures for the HSR System and the Fresno to Bakersfield Section and as applicable mitigation measures are identified specifically for the F-B LGA, proposed station location, maintenance facilities, and power conveyance facilities. The NEPA Mitigation Monitoring and Enforcement Plan (MMEP) and CEQA Mitigation Monitoring and Reporting Program (MMRP) will be amended to include new F-B LGA mitigation measures as applicable or revised mitigation measures applicable to the F-B LGA.

## Response to Submission S006 (Scott Morgan, State Clearinghouse, January 17, 2018) - Continued

### **S006-5**

A hydroacoustical analysis is not required as Project construction over the Kern River corridor is expected to occur when the river is dry. Additionally, the need for this type of analysis is generally triggered by potential effects to special-status aquatic species. No special-status aquatic species (anadromous fish) occur in the subject reach of the Kern River as downstream access is prohibitive (impassable barriers). Water flow in this reach of the Kern River is heavily managed via weirs, dams, and flood gates. If necessary, a dewatering plan will be prepared to ensure the channel is dry during the installation of the viaduct piers.

### **S006-6**

As described in the Draft Supplemental EIR/EIS under Impact HWR#4 - Temporary Impacts on Floodplains, standard floodplain measures, as specified in Mitigation Measure HWR-MM#1, would be implemented during construction for work within the City of Shafter floodplain and Kern River floodplain. Cofferdams would be used during in-water work during construction to avoid discharge of sediment from the construction site (page 3.8-29). Accidental spills or releases during construction could contaminate water quality during construction. Therefore, a discussion of and reference to Avoidance and Minimization Measure HMW IAMM#7, Spill Prevention, from Section 3.10, Hazardous Materials and Wastes, was included in Impact HWR#2 and Impact HWR#3. Refer to Volume I Changes to the Draft Supplemental EIS (Errata) of this Final Supplemental EIS. Offsite refueling would not be required and is not discussed in the Draft Supplemental EIR/EIS.

### **S006-7**

Relevant regulatory agencies and affected parties will be consulted when preparing construction management plans, consistent with HMW IAMM#5. As stated in the text of this avoidance and minimization measure (Draft Supplemental EIR/EIS, page 3.10-40), the Contractor will work closely with state and local agencies to resolve any such [unforeseen] encounters and address necessary cleanup or disposal.

No revisions to the Final Supplemental EIS are necessary based upon this comment.

### **S006-8**

Access to the Kern River will be maintained to the maximum extent feasible throughout project implementation. There would be some temporary access restrictions during project construction due to the presence of construction vehicles and equipment, in the interest of public safety. As noted by the commenter, construction of the project would require work in the Kern River to accommodate the installation of in-water supporting piers (Draft Supplemental EIR/EIS, page 3.8-28), and would affect designated beneficial uses for the Kern River which include (but are not limited to) Water Contact Recreation and Non-Contact Water Recreation. The temporary restriction of access to very specific portions of the Kern River during project construction would not substantially affect these beneficial uses.

No changes to the Final Supplemental EIS have been incorporated based upon this comment.

### **S006-9**




The Authority takes this comment into consideration and will continue to coordinate with private and public sectors during the environmental process of the environmental document. The Authority agrees that early coordination with agencies helps in developing a thorough environmental document and assists in streamlining the environmental process.

## Submission S007 (Scott Morgan, State Clearinghouse, January 17, 2018)

### Fresno - Bakersfield (2014 June+) - RECORD #444 DETAIL

**Status :** Action Pending  
**Record Date :** 1/24/2018  
**Response Requested :** No  
**Affiliation Type :** State Agency  
**Interest As :** State Agency  
**Submission Date :** 1/17/2018  
**Submission Method :** Letter  
**First Name :** Scott  
**Last Name :** Morgan  
**Professional Title :** Director  
**Business/Organization :** State Clearinghouse  
**Address :** 1400 Tenth Street  
**Apt./Suite No. :**  
**City :** Sacramento  
**State :** CA  
**Zip Code :** 95812-3044  
**Telephone :** 916-445-0613  
**Email :**  
**Email Subscription :**  
**Cell Phone :**  
**Add to Mailing List :** Yes  
**Stakeholder Comments/Issues :**  
**EIR/EIS Comment :** Yes  
**Official Comment Period :**  
**Attachments :** 444\_Morgan\_letter\_011718\_Original.pdf (402 kb)

S007-1

 Edmund G. Brown Jr. Governor	STATE OF CALIFORNIA Governor's Office of Planning and Research State Clearinghouse and Planning Unit	 Ken Alex Director
January 17, 2018		
Mark McLoughlin California High Speed Rail Authority 770 L St, Suite 620 MS-1 Sacramento, CA 95814		
Subject: California High-Speed Train Project Fresno to Bakersfield Section SCH#: 2009091126		
Dear Mark McLoughlin:		
The enclosed comment (s) on your Supplemental EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on January 16, 2018. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.		
The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.		
Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2009091126) when contacting this office.		
Sincerely,		
 Scott Morgan Director, State Clearinghouse		
Enclosures		
cc: Resources Agency		
1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044 TEL (916) 445-0613 FAX (916) 323-3018 www.oprc.ca.gov		

## Submission S007 (Scott Morgan, State Clearinghouse, January 17, 2018) - Continued



State of California • Natural Resources Agency  
Department of Conservation  
Division of Oil, Gas, and Geothermal Resources – District 4  
4900 Stockdale Highway • Suite 100  
Bakersfield, CA 93309  
(661) 322-4031 • FAX (661) 861-0279

Edmund G. Brown Jr., Governor

1-16-18  
E

January 16, 2018

Governor's Office of Planning & Research

JAN 17 2018

STATE CLEARINGHOUSE

Mr. Mark McLoughlin  
California High-Speed Rail Authority  
770 L Street, Suite 620 MS-1  
Sacramento, CA 95814

Subject: California High-Speed Rail Project Fresno to Bakersfield Project Section Draft Supplemental EIR/EIS  
SCH No. 2009091126

Dear Mr. McLoughlin:

S007-2

The Department of Conservation, Division of Oil, Gas, and Geothermal Resources (Division) has received and reviewed the above Notice of Public Hearing and submits the following evaluation.

Division records indicate there are **eleven known** abandoned oil and gas wells, two active water disposal wells, and two proposed locations for new drill wells located within the project footprint. Please see the enclosed Well Review Report for additional information about these wells.

Each well may have had a mud pit/drilling sump associated with the well's drilling operations. Permanent track is indicated adjacent to or on an active production facility site in Section 36, T. 26S, R. 24E. For these reasons, the Division recommends soil testing and remediation of any contamination found in these areas. Please see comment 8 in the enclosed Well Review Report.

Buried flowlines may be present near active and formerly active wells.

The developer/project owner is required to consult with the Division prior to the commencement of any work to uncover a known abandoned well. A Division-issued permit is required prior to any alteration of well casing or plugging.

Aerial imagery suggests an elevated structure for permanent track has been built over well Fresno Associated Oil & Gas Co. 1, API No. 019-06061, in Section 23, T. 14S, R. 20E. The well is not plugged according to Division records and may be presumed to be capable of flow to the surface in wet years. Foundations/footings near this well could be adversely impacted by such flow. There is no record of consultation with the Division regarding this well in the well records.

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If during development activities, any wells are encountered that were not part of this review, the property owner/developer shall immediately notify the Division's construction site well review engineer in the Bakersfield district office. The district office will send a follow-up well evaluation letter to the property owner and local permitting agency. Remedial plugging and abandonment operations may be required.

Thank you for the opportunity to comment on this project. Should any questions arise, please contact me in the Bakersfield district office at (661) 334-3662.

Sincerely,

Michael Toland  
Senior Oil and Gas Engineer  
Environmental Unit Supervisor

enclosures

## Submission S007 (Scott Morgan, State Clearinghouse, January 17, 2018) - Continued

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## WELL REVIEW REPORT

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The Division of Oil, Gas, and Geothermal Resources (Division) possesses records regarding oil and gas wells drilled and operated in the State of California. (Cal. Public Res. Code, §§ 3215, 3126.) Based on the Division's records and expertise, the Division has undertaken review of the well(s) referenced below at the request of a party either having jurisdiction over the use of the parcel referenced above, or a party having control over, or an interest in, the use of the parcel. This request is considered by the Division as voluntary participation in the Division's Well Review Program. The Division provides the information below to facilitate local permitting agencies' exercise of local land-use authority regarding use of land where oil and gas wells are situated. In contrast, the Division does not possess local land-use decision authority, but alternatively has authority for permitting any necessary work on any well in the state. (Cal. Public Res. Code, §§ 3106 and 3203.)

The Division has conducted a record review of the known well(s) located on the above-referenced parcel(s). The record review process consists of determining the possible location, last known operator, and abandonment status of any known well on the property by examining records previously submitted to the Division, and then comparing the abandonment status with current abandonment standards.

In general, a well may be considered adequately abandoned when both the record review and on-site evaluation process reflect that steps have been taken to isolate all oil-bearing or gas-bearing strata encountered in the well, and to protect underground or surface water suitable for irrigation or farm or domestic purposes from the infiltration or addition of any detrimental substance, and to prevent damage to life, health, property, and other resources. (Cal. Public Res. Code, § 3208.)

Review of wells are divided into two parts for this report: Wells that may be encountered in the Locally Generated Alternative (LGA), and wells that may be encountered in the BNSF Alternative. California Code of Regulations (CCR) may be found at <http://ftp.consrv.ca.gov/pub/oil/laws/PRC10.pdf>. CCR accessed on January 16, 2018 for this review.

The following is a summary of all known wells located near or within the LGA project footprint as provided in Volume II: Technical Appendices; Appendix 3.1-A Parcels within HSR Footprint.

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Well	Status
Ancora-Verde Corporation "Ansolabehe" 4 029-06793	<p>The record review process shows that the subject well is not abandoned to current Division standards as of January 2, 2018.</p> <p>Section 14, T. 29S, R. 27E., MD B&amp;M</p> <p>Based on well records:</p> <ol style="list-style-type: none"> <li>1. The well does not meet plugging and abandonment requirements for surface plugging. CCR 1723.5</li> <li>2. The well does not meet plugging and abandonment requirements for hole fluid. CCR 1723 (b)</li> <li>3. The well does not meet plugging and abandonment requirements for plugging at a casing shoe. CCR 1723.3</li> <li>4. The well does not meet plugging and abandonment requirements for freshwater protection. CCR 1723.2 (b)</li> <li>5. The well does not meet plugging and abandonment requirements for oil and gas zone plugs. CCR 1723.1 (a)</li> </ol> <p>The subject well is located near or under the elevated structure indicated on Page 15, Volume II: Technical Appendices – Appendix 3.1-A. Please refer to the Division's online Well Finder map for well location at <a href="http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx">http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx</a></p>
Ancora-Verde Corporation "Ansolabehe" 7 029-06797	<p>The record review process shows that the subject well is abandoned to current Division standards as of January 2, 2018.</p> <p>Section 14, T. 29S, R. 27E., MD B&amp;M</p> <p>Based on well records:</p> <ol style="list-style-type: none"> <li>1. The well was tested for leakage and found not leaking on April 28, 2004.</li> </ol> <p>The subject well is located near or under the elevated structure indicated on Page 15, Volume II: Technical Appendices – Appendix 3.1-A. Please refer to the Division's online Well Finder map for well location at <a href="http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx">http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx</a></p>

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ARCO Western Energy "Lerdo" 2 029-08931	<p>The record review process shows that the subject well is not abandoned to current Division standards as of January 9, 2018.</p> <p>Section 33, T. 28S, R. 27E., MD B&amp;M</p> <p>Based on well records:</p> <ol style="list-style-type: none"> <li>1. The well does not meet plugging and abandonment requirements for hole fluid. CCR 1723 (b)</li> <li>2. The well does not meet plugging and abandonment requirements for plugging at a casing shoe. CCR 1723.3</li> <li>3. The well does not meet plugging and abandonment requirements for oil and gas zone plugs. CCR 1723.1 (a)</li> <li>4. The well was tested for leakage and found not leaking on September 10, 2002.</li> </ol> <p>The subject well is located near or within the area impacted by roadway construction indicated on Page 12, Volume II: Technical Appendices – Appendix 3.1-A. Please refer to the Division's online Well Finder map for well location at <a href="http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx">http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx</a></p>
California Resources Production Corporation "Freshman" 28-14H 030-58009	<p>The record review process indicates that the subject well has not been drilled as of January 9, 2018.</p> <p>Section 14, T. 28S, R. 25E., MD B&amp;M</p> <p>The subject well is located near or within the area impacted by roadway construction indicated on Page 4, Volume II: Technical Appendices – Appendix 3.1-A. Please refer to the Division's online Well Finder map for well location at <a href="http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx">http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx</a></p>
California Resources Production Corporation "SILL" 28A(32)-14H 030-56717	<p>The record review process indicates that the subject well has not been drilled as of January 9, 2018.</p> <p>Section 14, T. 28S, R. 25E., MD B&amp;M</p> <p>The subject well is located near or within the area impacted by roadway construction indicated on Page 4, Volume II: Technical Appendices – Appendix 3.1-A. Please refer to the Division's online Well Finder map for well location at <a href="http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx">http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx</a></p>

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Donald Len Barreth "H & K" 1 029-50234	<p>The record review process shows that the subject well is not abandoned to current Division standards as of January 12, 2018.</p> <p>Section 14, T. 29S, R. 27E., MD B&amp;M</p> <p>Based on well records for the redrilled wellbore:</p> <ol style="list-style-type: none"> <li>1. The well does not meet plugging and abandonment requirements for surface plugging. CCR 1723.5</li> <li>2. The well does not meet plugging and abandonment requirements for freshwater protection. CCR 1723.2 (b)</li> <li>3. The well does not meet plugging and abandonment requirements for oil and gas zone plugs. CCR 1723.1 (b)</li> </ol> <p>Based on well records for the original wellbore 2932'-3321':</p> <ol style="list-style-type: none"> <li>1. The record review process shows that this wellbore interval is abandoned to current Division standards as of January 12, 2018.</li> </ol> <p>The subject well is located near or within a temporary impact area indicated on Page 15, Volume II: Technical Appendices – Appendix 3.1-A. Please refer to the Division's online Well Finder map for well location at <a href="http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx">http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx</a></p>
Essex Oil & Gas Company "Essex-Lord & Green" 2 029-06786	<p>The record review process shows that the subject well is not abandoned to current Division standards as of January 9, 2018.</p> <p>Section 11, T. 29S, R. 27E., MD B&amp;M</p> <p>Based on well records for the redrilled wellbore:</p> <ol style="list-style-type: none"> <li>1. The well does not meet plugging and abandonment requirements for surface plugging. CCR 1723.5</li> <li>2. The well does not meet plugging and abandonment requirements for hole fluid. CCR 1723 (b)</li> <li>3. The well does not meet plugging and abandonment requirements for plugging at a casing shoe. CCR 1723.3</li> <li>4. The well does not meet plugging and abandonment requirements for oil and gas zone plugs. CCR 1723.1 (b)</li> </ol>

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	<p>Based on well records for the original wellbore 1072'-2845':</p> <ol style="list-style-type: none"> <li>1. The well does not meet plugging and abandonment requirements for hole fluid. CCR 1723 (b)</li> <li>2. The well does not meet plugging and abandonment requirements for oil and gas zone plugs. CCR 1723.1 (b)</li> </ol> <p>The subject well is located near or under the elevated structure indicated on Page 14, Volume II: Technical Appendices – Appendix 3.1-A. Please refer to the Division's online Well Finder map for well location at <a href="http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx">http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx</a></p>
<p><b>Lebow &amp; Lebow</b> "Nellie Owens" 1 029-08235</p>	<p>The record review process shows that the subject well is not abandoned to current Division standards as of January 4, 2018.</p> <p>Section 11, T. 29S, R. 27E., MD B&amp;M</p> <p>Based on well records:</p> <ol style="list-style-type: none"> <li>1. The well does not meet plugging and abandonment requirements for surface plugging. CCR 1723.5</li> <li>2. The well does not meet plugging and abandonment requirements for hole fluid. CCR 1723 (b)</li> <li>3. The well does not meet plugging and abandonment requirements for freshwater protection. CCR 1723.2 (b)</li> <li>4. The well does not meet plugging and abandonment requirements for oil and gas zone plugs. CCR 1723.1 (b)</li> </ol> <p>The subject well is located near or under the elevated structure indicated on Page 15, Volume II: Technical Appendices – Appendix 3.1-A. Please refer to the Division's online Well Finder map for well location at <a href="http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx">http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx</a></p>

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<p><b>Petro Resources, Inc.</b> "Lerdo-Bidart" 43 029-49720</p>	<p>The record review process shows that the subject well is not abandoned to current Division standards as of January 8, 2018. The Division recommends remediation of this well.</p> <p>Section 4, T. 29S, R. 27E., MD B&amp;M</p> <p>Based on well records:</p> <ol style="list-style-type: none"> <li>1. The well does not meet plugging and abandonment requirements for surface plugging. CCR 1723.5</li> <li>2. The well does not meet plugging and abandonment requirements for oil and gas zone plugs. CCR 1723.1 (a)</li> </ol> <p>The subject well is located near or under the elevated structure indicated on Page 12, Volume II: Technical Appendices – Appendix 3.1-A. Please refer to the Division's online Well Finder map for well location at <a href="http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx">http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx</a></p>
<p><b>SWEPI, LP</b> "Core Hole" F 029-30784</p>	<p>The record review process shows that the subject well is not abandoned to current Division standards as of January 9, 2018. The Division recommends (re)abandonment of this well.</p> <p>Section 31, T. 28S, R. 27E., MD B&amp;M</p> <p>Based on well records:</p> <ol style="list-style-type: none"> <li>1. The well does not meet any plugging and abandonment requirements for cement plugs. CCR 1723 (a)</li> <li>2. The well does not meet any plugging and abandonment requirements for hole fluid. CCR 1723 (b)</li> </ol> <p>The subject well is located near or under the mainline track indicated on Page 11, Volume II: Technical Appendices – Appendix 3.1-A. Please refer to the Division's online Well Finder map for well location at <a href="http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx">http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx</a></p>

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The following is a summary of all known wells located near or within the BNSF Alternative project footprint as provided in Volume II: Technical Appendices: 3.1-A Parcels within HST Footprint Part 1-90, Part 91-150, and Part 151-250 of the Final Environmental Impact Report/Environmental Impact Statement.

## Submission S007 (Scott Morgan, State Clearinghouse, January 17, 2018) - Continued

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Well	Status
California Resources Production Corporation "Neufeld" WD 1 030-50072	Division records show that this well is active.  Section 36, T. 26S, R. 24E., MD B&M  The subject well is located near or under the permanent track indicated on Pages 149 and 150, Volume II: Technical Appendices; Appendix 3.1-A Parcels within HST Footprint Part 91-150 of the Final Environmental Impact Report/Environmental Impact Statement: Fresno to Bakersfield. Please refer to the Division's online Well Finder map for well location at <a href="http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx">http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx</a>
California Resources Production Corporation "Rose" 1SWD 030-35395	Division records show that this well is active.  Section 36, T. 26S, R. 24E., MD B&M  The subject well is located near or within the area impacted by roadway construction and permanent track indicated on Page 151, Volume II: Technical Appendices; Appendix 3.1-A Parcels within HST Footprint Part 151-250 of the Final Environmental Impact Report/Environmental Impact Statement: Fresno to Bakersfield. Please refer to the Division's online Well Finder map for well location at <a href="http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx">http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx</a>
Ebert & Brandt "Russell" 1 029-08092	The record review process shows that the subject well is not abandoned to current Division standards as of January 13, 2018.  Section 25, T. 25S, R. 24E., MD B&M  Based on well records for the 2 <sup>nd</sup> redrilled wellbore: 1. The well does not meet plugging and abandonment requirements for surface plugging. CCR 1723.5 2. The well does not meet plugging and abandonment requirements for freshwater protection. CCR 1723.2 (b) 3. The well does not meet plugging and abandonment requirements for oil and gas zone plugs. CCR 1723.1 (a) (b)

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	<p>4. The well does not meet plugging and abandonment requirements for plugging at a casing shoe. CCR 1723.3</p> <p>Based on well records for the 1<sup>st</sup> redrilled wellbore below 2270'-6865':</p> <p>1. The well does not meet plugging and abandonment requirements for oil and gas zone plugs. CCR 1723.1 (a)</p> <p>Based on well records for the original wellbore 6465'-8594':</p> <p>1. The well does not meet plugging and abandonment requirements for oil and gas zone plugs. CCR 1723.1 (a)</p> <p>The subject well is located near or under the permanent track indicated on Pages 137 and 138 in Volume II: Technical Appendices; Appendix 3.1-A Parcels within HST Footprint Part 91-150 of the Final Environmental Impact Report/Environmental Impact Statement: Fresno to Bakersfield. Please refer to the Division's online Well Finder map for well location at <a href="http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx">http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx</a></p>
Fresno Associated Oil & Gas Co. 1 019-06061	<p>The record review process shows that the subject well is not abandoned to current Division standards as of January 8, 2018. The Division recommends (re)abandonment of this well.</p> <p>Section 23, T. 14S, R. 20E., MD B&amp;M</p> <p>Based on well records:</p> <p>1. The well does not meet any plugging and abandonment requirements for cement plugs. CCR 1723 (a)</p> <p>2. The well does not meet any plugging and abandonment requirements for hole fluid. CCR 1723 (b)</p> <p>The subject well is located near or under the permanent track indicated on Page 7 in Volume II: Technical Appendices; Appendix 3.1-A Parcels within HST Footprint Part 1-90 of the Final Environmental Impact Report/Environmental Impact Statement: Fresno to Bakersfield. Please refer to the Division's online Well Finder map for well location at <a href="http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx">http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx</a></p>

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Geochemical Surveys "Covey" 77-9 107-00429	<p>The record review process shows that the subject well is not abandoned to current Division standards as of January 13, 2018.</p> <p>Section 9, T. 24S, R. 24E., MD B&amp;M</p> <p>Based on well records:</p> <ol style="list-style-type: none"> <li>1. The well does not meet plugging and abandonment requirements for surface plugging. CCR 1723.5</li> <li>2. The well does not meet plugging and abandonment requirements for plugging at a casing shoe. CCR 1723.3</li> </ol> <p>The subject well is located near or under the permanent track indicated on Pages 120 and 121 in Volume II: Technical Appendices; Appendix 3.1-A Parcels within HST Footprint Part 91-150 of the Final Environmental Impact Report/Environmental Impact Statement: Fresno to Bakersfield. Please refer to the Division's online Well Finder map for well location at <a href="http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx">http://www.conservation.ca.gov/dog/Pages/Wellfinder.aspx</a></p>
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Total number of wells: 15

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The local permitting agency, property owner, and/or developer should be aware of, and fully understand, that significant and potentially dangerous issues may be associated with development near oil and gas wells. These issues are non-exhaustively identified in the following comments, and are provided by the Division for consideration by the local permitting agency, in conjunction with the property owner and/or developer, on a parcel-by-parcel or well-by-well basis. As stated above, the Division provides the above well review information solely to facilitate decisions made by the local permitting agency regarding potential development near oil or gas wells.

1. The Division recommends that access to any well located on the property be maintained in the event abandonment or re-abandonment of the well becomes necessary in the future. Impeding access to a well could result in the need to remove any structure or obstacle that prevents or impedes access. This includes, but is not limited to, buildings, housing, fencing, landscaping, trees, pools, patios, sidewalks, and decking.
2. Nothing guarantees that wells abandoned to current standards will not start leaking oil, gas, and/or water in the future. It always remains a possibility that any well may start to leak oil, gas, and/or water after abandonment, no matter how thoroughly the well was plugged and abandoned. The Division acknowledges wells that are presently abandoned to current standards have a lower probability of leaking oil, gas, and/or water in the future, but makes

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no guarantees as to the adequacy of the abandonment or the potential need for future re-abandonment.

3. Based on comments 1 and 2 above, the Division makes the following general recommendations:

- a. Maintain physical access to all oil and gas wells.
- b. Ensure that the abandonment of all oil and gas wells is to current standards.

If the local permitting agency, property owner, and/or developer chooses not to follow recommendation b for each well located on the development site property, the Division believes that the importance of following recommendation a for each well located on the subject property increases. If recommendation a cannot be followed for each well located on the subject property, then the Division advises the local permitting agency, property owner, and/or developer to consider any and all alternatives to proposed construction or development on the site (see comment 4 below).

4. Sections 3208 and 3255(a)(3) of the Public Resources Code give the Division the authority to order the re-abandonment of any well that is hazardous, or that poses a danger to life, health, or natural resources. Responsibility for re-abandonment costs for any well may be affected by the choices made by the local permitting agency, property owner, and/or developer in considering the general recommendations set forth in this letter. (Cal. Public Res. Code, § 3208.1.)
5. Maintaining sufficient access to an oil or gas well may be generally described as maintaining "rig access" to the well. Rig access allows a well servicing rig and associated necessary equipment to reach the well from a public street or access way, solely over the parcel on which the well is located. A well servicing rig, and any necessary equipment, should be able to pass unimpeded along and over the route, and should be able to access the well without disturbing the integrity of surrounding infrastructure.
6. The Division recommends that a local permitting agency consider the use of surface mitigation measures as a condition for project approval, if and when appropriate. Examples of surface mitigation measures include venting systems for wells, venting systems for parking lots, patios, and other hardscape, methane barriers for building foundations, methane detection systems, and collection cellars for well fluids. The Division does not regulate the design, installation, operation, or adequacy of such measures. The Division recommends that such surface mitigation measures are designed, installed, and operated by qualified engineers. The permitting of surface mitigation measures falls under the jurisdiction of the local permitting agency.
7. If during the course of development of a parcel any unknown wells are discovered, the Division should be notified immediately so that the newly discovered well(s) can be incorporated into the Well Review processes.
8. The Division recommends that any soil containing significant amounts of hydrocarbons be disposed of in accordance with local, state, and federal laws. Please notify the appropriate

## Submission S007 (Scott Morgan, State Clearinghouse, January 17, 2018) - Continued

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- S007-6 | authorities if soil containing significant amounts of hydrocarbons is discovered during development.
9. The Division recommends that the information contained in this Well Review Report, and any pertinent information obtained after the issuance of this report, be communicated to the appropriate county recorder for inclusion in the title information of the subject real property. This is to ensure that present and future property owners are aware of (1) the wells located on the property, and (2) potentially significant issues associated with any improvements near oil or gas wells.
- S007-7 | No well work may be performed on any oil or gas well without written approval from the Division in the form of an appropriate permit. This includes, but is not limited to, mitigating leaking fluids or gas from abandoned wells, modifications to well casings, and/or any other re-abandonment work. NOTE: The Division regulates the depth of any well below final grade (depth below the surface of the ground). Title 14, Section 1723.5 of the California Code of Regulations states that all well casings shall be cut off at least 5 feet but no more than 10 feet below grade. If any well needs to be lowered or raised (i.e. casing cut down or casing riser added) to meet this grade regulation, a permit from the Division is required before work can start.
- S007-8 | To reiterate, the local permitting agency, property owner, and/or developer should be aware of, and fully understand, that the above comments are made by the Division with the intent to encourage full consideration of significant and potentially dangerous issues associated with development near oil or gas wells.

## Response to Submission S007 (Scott Morgan, State Clearinghouse, January 17, 2018)

### S007-1

The Draft Supplemental EIR/EIS for the Fresno to Bakersfield Section was circulated for public review and comment between November 9, 2017 and January 16, 2018. Responses to public and agency comments received during the review period are provided in Chapters 20 through 26 (responses to comments on the Draft Supplemental EIR/EIS) of this Final Supplemental EIS for the Fresno to Bakersfield Section.

There were approximately 20 submissions to the Authority and FRA following the close of the comment period on the Draft Supplemental EIR/EIS. These comments and their corresponding responses have been included in Chapters 20 through 25 of the Final Supplemental EIS.

### S007-2

As stated in the Draft Supplemental EIR/EIS Section 3.10 (pages 3.10-26 –3.10-27), and in the Draft Supplemental EIR/EIS Section 3.9, locations of both active and abandoned oil wells were plotted from data obtained from the DOGGR (2015) database during preparation of the Draft Supplemental EIR/EIS. The Hazardous Materials and Wastes Technical Report (May 2017) indicates that 13 oil and gas wells are present within 330 feet of the alignment centerline (based upon 2016 data, which was the most current and accurate available at the time of preparation of this analysis). Section 5.5.8 (page 5-51) of the Technical Report also states, "...all construction and grading work within 100 feet of an oil well should be coordinated with the California Department of Conservation". This includes all oil and gas wells, not just those identified within the technical report. The technical report also indicates that appurtenant facilities (including pipelines) would also potentially need to be relocated and that mud sumps, pipelines, and storage tanks may be encountered.

Impact HMW #5 (Construction in Proximity of Landfills and Oil Well Sites) of the Draft Supplemental EIR/EIS for the F-B LGA indicates the following (page 3.10-37): "all construction and grading work conducted within 100 feet of an oil well site would be coordinated with the DOGGR, and active wells would be capped and abandoned, or relocated", and "Potential impacts of the F-B LGA associated with construction activities in proximity to landfills and oil well sites would occur in the same way as described in Section 3.10.5.3 of the Fresno to Bakersfield Section Final EIR/EIS (Authority and FRA 2014: page 3.10-34), with the exception that the location of site-specific occurrences would vary due to the locations of the F-B LGA alignment and associated facilities."

The well noted by the commenter, "Fresno Associated Oil & Gas Co. 1, API No. 019-06061", is located in the City of Fresno and is not within the study area for the F-B LGA. As discussed in the Draft Supplemental EIR/EIS for the F-B LGA, DOGGR will be contacted prior to any construction work within 100 feet wells (abandoned or active).

No revisions to the Final Supplemental EIS are necessary based upon this comment.

## Response to Submission S007 (Scott Morgan, State Clearinghouse, January 17, 2018) - Continued

### **S007-3**

As indicated in Impact HMW #5 (Construction in Proximity of Landfills and Oil Well Sites) of the Draft Supplemental EIR/EIS for the F-B LGA (page 3.10-37), “all construction and grading work conducted within 100 feet of an oil well site would be coordinated with the DOGGR, and active wells would be capped and abandoned, or relocated”. This includes any previously unknown wells that may be discovered during construction activities. Therefore, should an unexpected oil well be encountered, DOGGR would be contacted.

No revisions to the Final Supplemental EIS are necessary based upon this comment.

### **S007-4**

As discussed under Impact HMW #5 (Construction in Proximity of Landfills and Oil Well Sites) of the Draft Supplemental EIR/EIS for the F-B LGA (page 3.10-37), “all construction and grading work conducted within 100 feet of an oil well site would be coordinated with the DOGGR, and active wells would be capped and abandoned, or relocated”.

No revisions to the Final Supplemental EIS are necessary based upon this comment.

### **S007-5**

As discussed under Impact HMW #5 (Construction in Proximity of Landfills and Oil Well Sites) in the Draft Supplemental EIR/EIS for the F-B LGA (page 3.10-37), “all construction and grading work conducted within 100 feet of an oil well site would be coordinated with the DOGGR, and active wells would be capped and abandoned, or relocated”.

No revisions to the Final Supplemental EIS are necessary based upon this comment.

### **S007-6**

The commenter expresses concern regarding potentially dangerous situations that may be associated with development near oil and gas wells. DOGGR will be contacted regarding project construction activities, as discussed under Impact HMW #5 (Construction in Proximity of Landfills and Oil Well Sites) of the Draft Supplemental EIR/EIS for the F-B LGA (page 3.10-37).

No revisions to the Final Supplemental EIS are necessary based on this comment.

### **S007-7**

As stated in the Draft Supplemental EIR/EIS Section 3.10 (pages 3.10-26 –3.10-27), and in the Draft Supplemental EIR/EIS Section 3.9, locations of both active and abandoned oil wells were plotted from data obtained from the DOGGR (2015) database during preparation of the Draft Supplemental EIR/EIS. The Hazardous Materials and Wastes Technical Report (May 2017) indicates that 13 oil and gas wells are present within 330 feet of the alignment centerline (based upon 2016 data, which was the most current and accurate available at the time of preparation of this analysis). Section 5.5.8 (page 5-51) of the Technical Report also states, “...all construction and grading work within 100 feet of an oil well should be coordinated with the California Department of Conservation”. This includes all oil and gas wells, not just those identified within the technical report. The technical report also indicates that appurtenant facilities (including pipelines) would also potentially need to be relocated and that mud sumps, pipelines, and storage tanks may be encountered.

Impact HMW #5 (Construction in Proximity of Landfills and Oil Well Sites) of the Draft Supplemental EIR/EIS for the F-B LGA indicates the following (page 3.10-37): “all construction and grading work conducted within 100 feet of an oil well site would be coordinated with the DOGGR, and active wells would be capped and abandoned, or relocated.” These activities would be conducted in coordination with the DOGGR and would be in compliance with relevant requirements.

## Response to Submission S007 (Scott Morgan, State Clearinghouse, January 17, 2018) - Continued

### S007-8

The Authority takes this comment into consideration and will continue to coordinate with private and public sectors during the environmental review process and subsequent phases of the project (right-of-way acquisition, regulatory permitting, final design, etc.).