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March 12, 2021

VIA E-MAIL

California High-Speed Rail Authority
Attn: Draft 2020 Business Plan
770 L Street, Suite 620 MS-1
Sacramento, CA 95814
E-mail: DraftBP2020@hsr.ca.gov

Re: Comments on Revised Draft 2020 High-Speed Rail Business Plan

To Whom It May Concern,

Grassland Water District (GWD) and Grassland Resource Conservation District (GRCD) submit these comments on the Revised Draft 2020 Business Plan of the California High-Speed Rail Authority (Authority). As noted in previous comments to the Authority ranging as far back as 2005, the GWD and GRCD have significant concerns about the proposed alignment of the San Jose to Merced project segment, which unfortunately bisects the Grassland Ecological Area (GEA) at Mud Slough, the most vulnerable and environmentally sensitive wildlife corridor in the GEA. For years we worked with the Authority to develop avoidance and mitigation strategies, but our concerns remain about the unavoidable damage that the project will cause to sensitive and threatened aquatic, terrestrial, and avian species.

One overarching aspect of the Revised Draft Business Plan is the lack of projected funding to deliver the high-speed rail project as it was initially envisioned. We do not believe the Plan adequately discloses the foreseeable risks this poses, or sets forth sufficient strategies to manage those risks. We urge the Authority to revise the Plan to identify emergent risks for environmental compliance, and analyze potential alternative connecting routes to the Bay Area that would more efficiently utilize limited funding while reducing risk.

About the Grassland Ecological Area

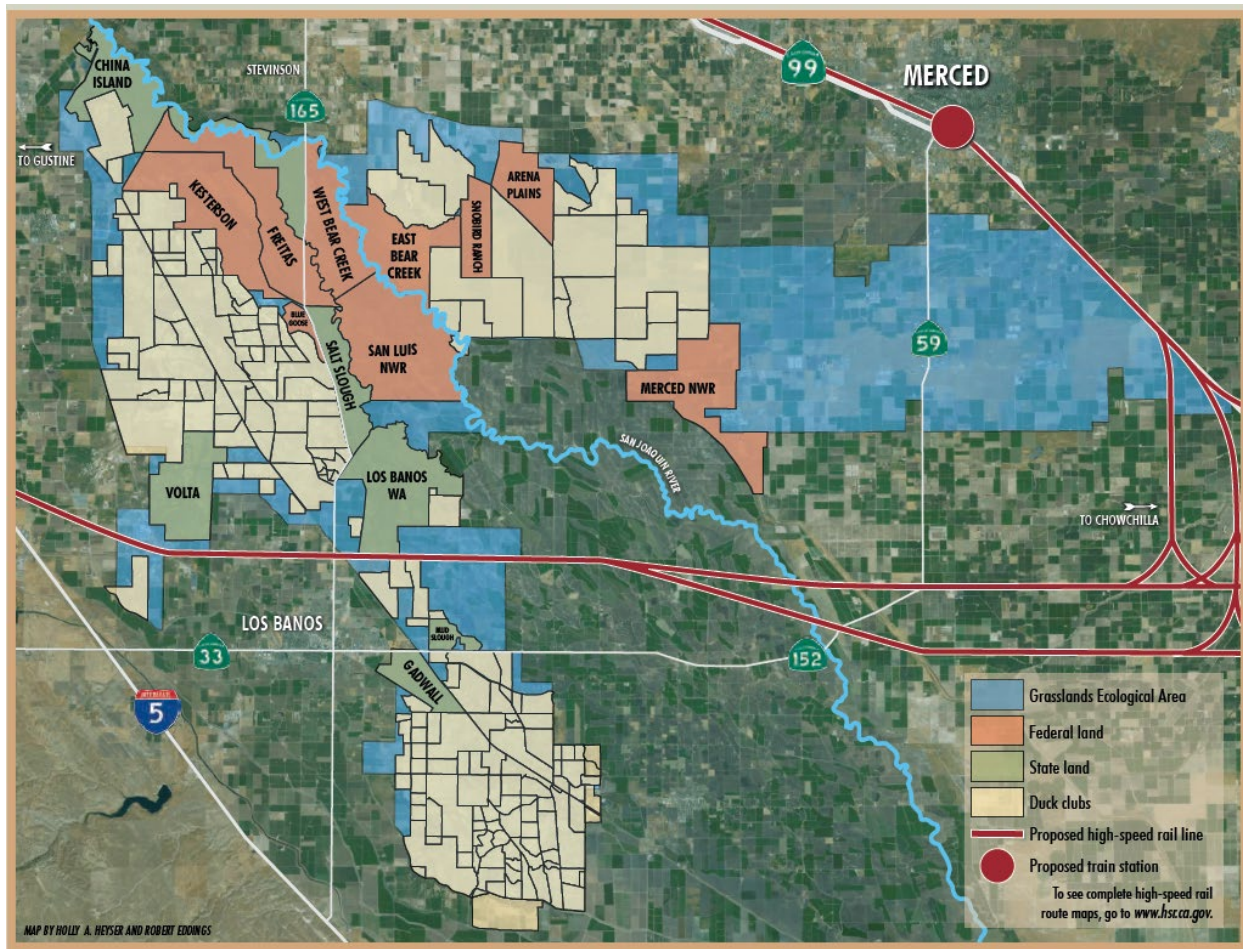
The GEA is an irreplaceable, internationally significant ecological resource. The GEA is located southwest of the City of Merced and surrounds the City of Los Banos to the north, east and south. Originally, this area was part of a four-million-acre wetland system in the Central Valley of California. Of the 300,000 acres that remain, the GEA contains the largest contiguous block of wetlands in the Central Valley. Protection of this area is the result of significant private and public investments and partnerships. The GEA is largely encompassed within the Grassland Wildlife Management Area, designated by Congress for priority acquisition of public easements for wetland preservation and enhancement. The GEA includes national wildlife refuges, a state park, state wildlife management areas, and the largest block of privately managed wetlands in the state, with a large and growing portfolio of federal and state conservation easements.

The GEA is of considerable importance because it preserves a variety of habitats important to the maintenance of biodiversity on a local, regional, national and international scale. It has been estimated that thirty percent (30%) of the Central Valley migratory population of waterfowl use this area for winter foraging. The GEA is a major wintering ground for migratory waterfowl and shorebirds of the Pacific Flyway. Over two million waterfowl utilize the GEA during the winter months. The GEA also provides habitat for more than 550 species of plants and animals, including 47 plant and animal species that are endangered, threatened or candidate species under state or federal law.

The Western Hemisphere Shorebird Reserve Network designated the GEA as one of only 15 international shorebird reserves in the world. The GEA is also recognized as a Wetland of Worldwide Importance by the Ramsar Convention, an international agreement dedicated to the worldwide protection of particular ecosystems. The designation of the GEA as a Wetland of Worldwide Importance illustrates the tremendous worldwide ecological value of this ecosystem. The GEA is recognized by the American Bird Conservancy as a Globally Important Bird Area.

The GEA provides a wide range of other benefits, including groundwater recharge, flood control, and educational and recreational opportunities. The concentration of wildlife is a unique feature of the area, attracting anglers, hunters and other recreational visitors who make significant contributions to the local economy. The GEA receives almost half a million user visits per year. Recreational and other activities related to habitat values in the GEA contribute \$70 million per year to the Merced County economy and account for approximately 800 jobs.

High-Speed Rail Proposed Route Though the GEA



Map courtesy of California Waterfowl Association

Previous Engagement and Commitments

The GWD and the GRCD submitted comments on the August 2005 Statewide Program EIR/EIS and the July 2008 Bay Area to Central Valley Program EIR/EIS. As a result of that engagement, the 2008 Program EIR/EIS committed the Authority to closely evaluate potential impacts to biological resources in the GEA, minimize the footprint of the high-speed rail project as it crosses the GEA, evaluate non-glare and directed lighting to avoid disturbance, and acquire at least 10,000 acres of agricultural, conservation, or open space easements within or adjacent to the GEA, in consultation with GWD, CDFW, and USFWS to mitigate for induced urban encroachment resulting from a stop in Merced and neighboring cities in proximity to the GEA.

From 2017 to 2019, the GWD, GRCD, and numerous conservation partners met regularly with the Authority to work through the required analysis and mitigation measures outlined above. The GEA working group developed a detailed conservation priorities framework for easement acquisition, exchanged information about anticipated biological impacts, and explored the concept of a below-grade alignment or an above-ground enclosure of the high-speed rail through the GEA.

Despite these efforts, the GWD, GRCD, and the non-profit Grassland Fund found significant flaws in the 2020 Draft San Jose to Merced Project EIR/EIS for the project. Among other problems, the EIS/EIR used a much smaller and incorrect boundary for the GEA, failed to incorporate or provide any further detail about previous Program-level requirements such as easement acquisition, and proposed inadequate, vague, and unenforceable mitigation measures for GEA impacts. The Authority has not responded to GWD's requests to continue meeting and try to resolve these issues.

Risks and Strategies to Manage Risks Not Identified

The Business Plan is required to identify risks associated with the project's finances, patronage, right-of-way acquisition, environmental clearances, construction, equipment, and technology, and other risks associated with the project's development. The Business Plan is also required to describe the Authority's strategies, processes, or other actions the Authority intends to utilize to manage those risks. The comments below request changes to the Revised Business Plan that would encapsulate a good-faith effort by the Authority to comply with these disclosure requirements.

1. The Business Plan Fails to Disclose the Authority's Significant Environmental and Property Compliance Risks

The Draft Revised Business Plan omits relevant information about risks associated with right-of-way acquisition and environmental clearances. As detailed in the February 22, 2021 *Los Angeles Times* article entitled "[A 'low-cost' plan for California bullet train brings \\$800 million in overruns, big delays](#)," there are significant emerging problems associated with the 99-mile Fresno to Bakersfield segment of the project now under construction. Hundreds of change orders pertaining to project design and environmental compliance have resulted in significant and costly disputes between the Authority and the California Department of Fish & Wildlife (CDFW) and United States Fish & Wildlife Service.

Through Public Records Act requests, GWD and GRCD learned that between 2017 and 2020 the Authority received at least 20 “Major Amendments” to the project’s Incidental Take Permit issued by CDFW under the California Endangered Species Act for this 99-mile segment. The amendments: (1) increased the project footprint; (2) removed viaducts and bridges over waterways in favor of at-grade crossings and culverts; (3) added new activities not previously covered, such as pile driving; (4) removed or relocated wildlife crossings; and (5) relocated wildlife mitigation sites. The staggering number of changes to environmental design and mitigation has led some to suggest that the Authority would have been better off rewriting its EIR/EIS for that project segment.

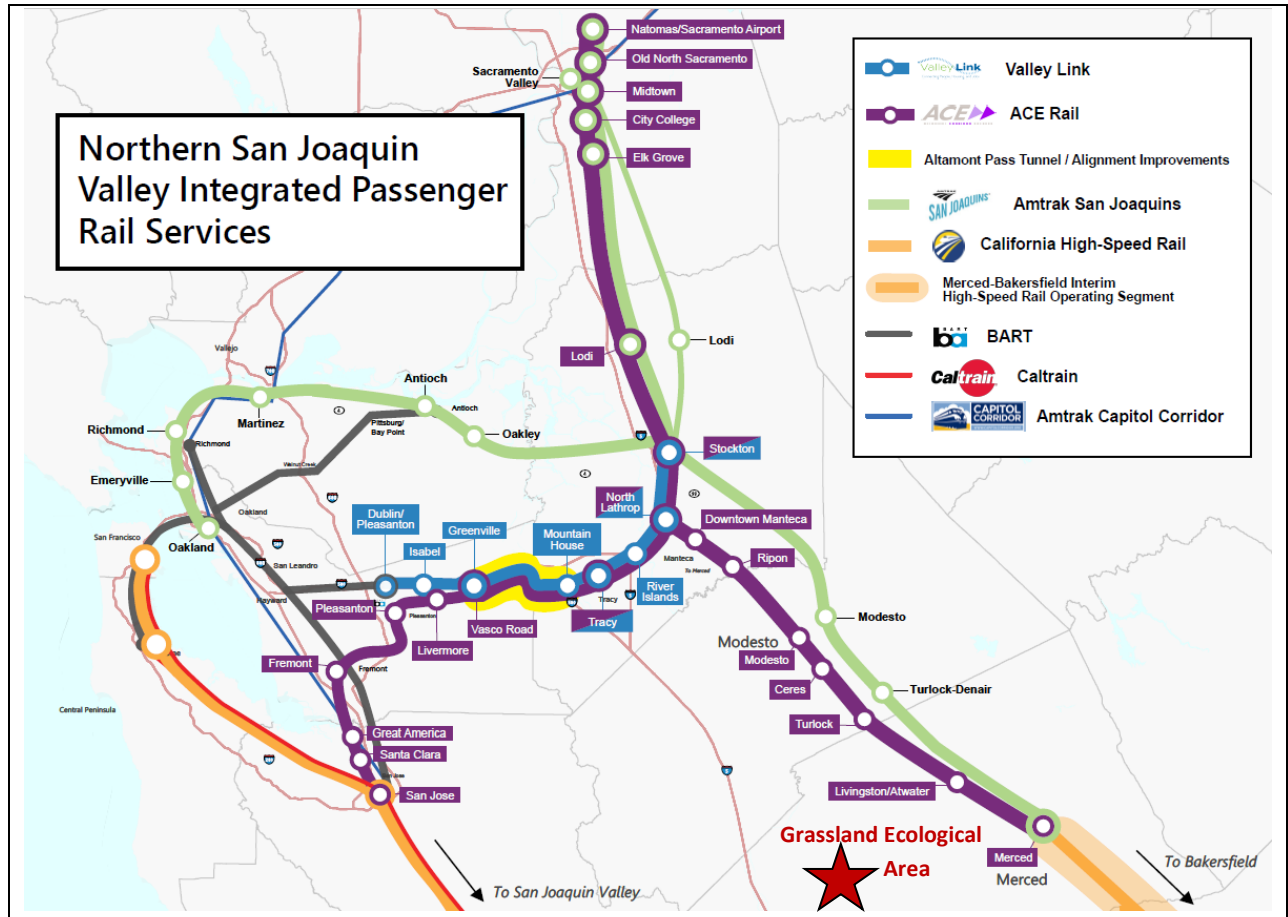
Unfortunately, the GWD and GRCD expect even greater risks to emerge along the San Jose to Merced segment of the project, due to the Authority’s refusal to work with stakeholders to develop a concrete mitigation strategy for the GEA that can be practically implemented and reasonably enforced. The Authority must disclose the known risks of added costs, delays, permitting disputes, and potential litigation that have made themselves evident on the Fresno to Bakersfield segment. An existing lack of adequate funding for the project as a whole gives these risks an elevated significance.

2. The Business Plan Fails to Identify Strategies, Processes, or Other Actions the Authority Intends to Utilize to Manage Those Risks.

The GWD and GRCD have repeatedly asked the Authority to cooperate on the establishment of a planning team to further identify required funding, third-party administration, and oversight for the significant amount of mitigation that will be required for the GEA, including easement acquisitions. A strategy along these lines should be included in the Revised Draft Business Plan to address the above-described risks.

Alternatively, the GWD and GRCD have consistently argued that it would be far more affordable, and risks would be greatly reduced, if the GEA was avoided altogether. The Revised Draft Business Plan notes that a combination of high-speed rail from Bakersfield to Merced and improvements in the connection to the existing Altamont Corridor Express (ACE) train line would be the best strategy to increase ridership at the lowest cost. According the [March 12, 2021 report](#) submitted by the Peer Review Group to the California Legislature, a majority of high-speed rail ridership would be generated by passengers from the ACE line.

Altamont Connection Would Affordably Avoid the GEA



We urge the Authority to include a strategy in its Revised Business Plan that focuses on connecting to the Altamont transit route and postpones further expenditures on the segment of the high-speed rail that would instead connect to the Bay Area through the GEA.

Sincerely,

Ricardo Ortega
 General Manager
 Grassland Water District and
 Grassland Resource
 Conservation District