

APPENDIX A: LEAST ENVIRONMENTALLY DAMAGING PRACTICABLE ALTERNATIVE CONCURRENCE LETTERS

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DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO CA 95814-2922

May 5, 2017

Regulatory Division (SPK-2009-01482)

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

Dear Mr. McLoughlin:

I am writing in response to your April 2017, Supplemental Checkpoint C Summary Report and the May 2, 2017, request for concurrence on the Preliminary Least Environmentally Damaging Practicable Alternative (LEDPA) determination for the proposed Fresno to Bakersfield segment of the California High-Speed Train (CHST) Project. In accordance with our *National Environmental Policy Act/Clean Water Act Section 404/Rivers and Harbors Act Section 14 Integration Process for the California High-Speed Train Program Memorandum of Understanding* dated November 2010 (NEPA/404/408 MOU). This letter is our formal response.

As a cooperating agency for preparation of the Fresno to Bakersfield Supplemental Environmental Impact Report/Environmental Impact Statement (EIR/EIS) and in fulfillment of our responsibilities under the NEPA/404/408 MOU, we offered feedback to the Federal Railroad Administration as well as the California High-Speed Rail Authority (Authority) on the Preliminary LEDPA determination and draft Compensatory Mitigation Plan. We provided comments on April 4, 2017, regarding the draft Checkpoint C Supplemental Summary Report and Information Packet submitted on March 10, 2017. We have also discussed these comments and the proposed alternatives in multiple meetings with your staff and consultants.

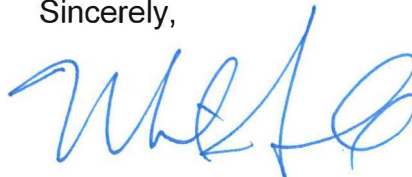
After reviewing the data provided, we concur that the Fresno to Bakersfield Locally Generated Alternative from Poplar Avenue in Shafter to Oswell Street in Bakersfield, appears to be the Preliminary LEDPA. This alignment is a continuation of the December 19, 2013, Checkpoint C LEDPA determination from the Fresno station to Seventh Standard Road. Please be aware that this determination is being made prior to the circulation of the public Draft Environmental Impact Statement and will be revisited if additional information is available after public comments are received.

In addition, we concur that the draft Compensatory Mitigation Plan may provide sufficient mitigation to meet the needs of the project under Section 404 of the Clean Water Act. However, the Corps cannot make a permit decision until we receive a final

mitigation plan in accordance with 33 CFR Part 332, *Compensatory Mitigation for Losses of Aquatic Resources*. We will continue to work with the Authority to finalize the mitigation plan in order to fully satisfy the requirements for a final mitigation plan.

We appreciate your willingness to work with this office to reach this concurrence. If you have any questions, please contact Mr. Zachary Simmons at our Enforcement/Special Projects Branch, 1325 J Street, Room 1350, Sacramento, California 95814-2922, by email at Zachary.M.Simmons@usace.army.mil, or by telephone at 916-557-6746.

Sincerely,



Michael S. Jewell
Chief, Regulatory Division

cc:

Mr. David Valenstein, Federal Railroad Administration, David.Valenstein@dot.gov

Mr. Jason Brush, U.S. Environmental Protection Agency, Region IX, Wetlands
Regulatory Office (WTR-8), Brush.Jason@epa.gov

Ms. Connell Dunning, U.S. Environmental Protection Agency, Region IX, Environmental
Review Office/Transportation, Dunning.Connell@epa.gov

Mr. Serge Stanich, Parsons Brinkerhoff, Serge.Stanich@hsr.ca.gov



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
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May 22, 2017

Stephanie Perez-Arrieta
Federal Railroad Administration
1120 Vermont Avenue, NW, MS 20
Washington, D.C. 20590

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

Subject: Final Supplemental Checkpoint C Summary Report Package for the Fresno to Bakersfield Project Section- Request for Agreement on Preliminary Least Environmentally Damaging Practicable Alternative and Draft Compensatory Mitigation Plan

Dear Ms. Perez-Arrieta and Mr. McLoughlin:

Thank you for the opportunity to provide comments in advance of publication of the Supplemental Draft Environmental Impact Statement (SDEIS) for the Fresno to Bakersfield section of California High Speed Rail (HSR). This letter responds to your May 2, 2017 request for agreement on the Preliminary Least Environmentally Damaging Practicable Alternative (LEDPA) determination for the proposed Fresno to Bakersfield Locally Generated Alternative (F-B LGA), which spans 23.13 miles between Poplar Avenue in Shafter and Oswell Street in Bakersfield and includes a proposed station at the intersection of State Route 204 and F Street in Bakersfield. We appreciate the additional edits made to the Checkpoint C Package in response to previous comments made by our agency via email on March 31, 2017 and at the pre-submittal workshop on April 4, 2017.

EPA feedback is aimed at integrating permitting requirements of Clean Water Act (CWA) Section 404 with NEPA requirements. The purpose of this letter is to provide EPA's "agreement" with "Checkpoint C", a step in the integration process described in the *NEPA/ CWA Section 404/Rivers and Harbors Act Section 14 (33 U.S.C. 408) Integration Process for the California High-Speed Train Program Memorandum of Understanding* (NEPA/404 MOU) dated December 2010. To facilitate effective integration of CWA Section 404 and NEPA for this project, EPA continues to coordinate closely with your agencies and the U.S. Army Corps of Engineers (Corps).

Least Environmentally Damaging Practicable Alternative (LEDPA)

After reviewing the information provided in the Checkpoint C package, and per the NEPA/404 MOU, EPA provides agreement with FRA and CHSRA's determination that the "F-B LGA" alternative is the preliminary LEDPA for the connection between Poplar Avenue in Shafter and Oswell Street in Bakersfield. This alignment is a continuation of the December 19, 2013, Checkpoint C LEDPA determination from the Fresno station to Seventh Standard Road. As this determination has been made prior to public circulation of the SDEIS, it will be revisited if necessary should additional information become available after public comments are received.

Draft Compensatory Mitigation Plan

The Draft Compensatory Mitigation Plan is a conceptual strategy specifying resources available for the establishment and/or rehabilitation of aquatic resources. The submitted Checkpoint C Package provides a general overview of mitigation needs, opportunities, and plausible implementation scenarios.

According to the submittal, the F-B LGA will result in direct impacts to 17.14 acres of waters of the United States (WOUS). The submittal also briefly describes 3 potential mitigation sites to offset unavoidable impacts to WOUS.

Per the NEPA/404 MOU, EPA provides agreement that the Draft Compensatory Mitigation Plan may provide sufficient mitigation to meet the needs of the project under Section 404 of the Clean Water Act. EPA expects that more site-specific information will be made available prior to Clean Water Act Section 404 permitting. Specifically, the Final Mitigation Plan should include information on all key elements of the mitigation rule (Subpart J of the 404(b)(1) Guidelines at 40 CFR Part 230) in order to ensure compliance. Some factors include, but are not limited to: information on the environmental suitability of candidate compensatory mitigation sites; landscape scale connectivity between proposed mitigation sites and other aquatic resources; evidence of historical wetlands occurrence; suitability to sustain hydrology; and presence of adequate buffer areas. EPA looks forward to collaborating with your agencies and Corps staff in the use of the program technical procedures to implement a watershed approach to mitigation.

Thank you for requesting EPA's agreement on the LEDPA and Draft Compensatory Mitigation Plan. We look forward to further participation in the development of environmental documents for this project. EPA will ultimately review EISs for each section of the California HSR system pursuant to NEPA, Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. EPA will also review CWA Section 404 permit applications for each HSR section for compliance with EPA's 404(b)(1) Guidelines (40 CFR 230.10). We appreciate this opportunity to address potential environmental issues as early as possible.

If you have any questions or comments please contact the NEPA lead for this project, Clifton Meek, at (415) 972-3370 (meek.clifton@epa.gov) or the aquatic resources lead for this project, Sarvy Mahdavi, at (213) 244- 1830 (mahdavi.sarvy@epa.gov).

Sincerely,



Connell Dunning, Transportation Team Supervisor
Environmental Review Section
Enforcement Division

CC Via Email:

Kitty Barkley, California High Speed Rail Authority
Serge Stanich, California High Speed Rail Authority
Zachary Simmons, U.S. Army Corps of Engineers
Susan Meyer, U.S. Army Corps of Engineers