

APPENDIX B: CORRESPONDENCE FROM FEDERAL RAILROAD ADMINISTRATION REGARDING GENERAL CONFORMITY

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From: [Perez-Arrieta, Stephanie \(FRA\)](#)
To: [Beightel, Eric\(PB\)@HSR](#); [Osterhues, Marlys \(FRA\)](#)
Cc: [McLoughlin, Mark@HSR](#); [McKell, Dan@HSR](#); [Porter, Bryan\(PB\)@HSR](#); [Stanich, Serge\(PB\)@HSR](#); [Bayne, Andrew\(PB\)@HSR](#); [Patel, Manisha D.](#)
Subject: RE: LGA Air Quality Conformity Verification
Date: Friday, October 18, 2019 1:59:39 PM

Eric,

Thank you for your explanations below. FRA agrees with the underlying conclusion of the memo that no new conformity determination or re-evaluation is required for the LGA. However, we would like to discuss the details of your memo so that we have a common understanding of the evaluations for the CV Wye and any future supplemental EISs. We should also take that opportunity to discuss project sections that will require new general conformity determinations by FRA.

Please let me know when you would be available for further discussion on this topic in light of what we understand is the status of the CV Wye EIS.

Stephanie

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From: Beightel, Eric(PB)@HSR [mailto:Eric.Beightel@hsrc.ca.gov]
Sent: Tuesday, October 15, 2019 2:18 PM
To: Perez-Arrieta, Stephanie (FRA) <stephanie.perez@dot.gov>; Osterhues, Marlys (FRA) <Marlys.Osterhues@dot.gov>
Cc: McLoughlin, Mark@HSR <Mark.McLoughlin@hsrc.ca.gov>; McKell, Dan@HSR <Dan.McKell@hsrc.ca.gov>; Porter, Bryan(PB)@HSR <bryan.porter@hsrc.ca.gov>; Stanich, Serge(PB)@HSR <Serge.Stanich@hsrc.ca.gov>; Bayne, Andrew(PB)@HSR <Andrew.Bayne@hsrc.ca.gov>; Patel, Manisha D. <Manisha.Patel@wsp.com>
Subject: RE: LGA Air Quality Conformity Verification

Stephanie –

Sorry I missed the call this morning but I understand that you discussed the responses to your query below. I've pasted the answers in bold for your use.

- Was the 2014 model run for the final EIS to determine “de minimis” on the selected alternative? - **The run was done for the BNSF alternative which, as detailed in the EIR/EIS, was the worst case alternative. The results of the analysis were used for comparison to the de minimis thresholds.**
- Is table 1 in the memo for the entire FB project or just the section from Wasco to Bakersfield downtown station? **Table 1 is the Construction emissions from the Final General Conformity Determination, which was finalized in 2014, and represent the entire 2014 FB alignment. Table 2 is the full FB alignment including the LGA modifications. The emissions are lower in Table 2 because, under the LGA, the station would be located at F Street, making the route shorter, with fewer structures, and it would take less time to build.**

Please let me(us) know if you have any additional questions or concerns.

EBB

From: Perez-Arrieta, Stephanie (FRA) <stephanie.perez@dot.gov>
Sent: Friday, October 11, 2019 3:23 PM
To: Beightel, Eric(PB)@HSR <Eric.Beightel@hsr.ca.gov>; Osterhues, Marlys (FRA) <Marlys.Osterhues@dot.gov>
Cc: McLoughlin, Mark@HSR <Mark.McLoughlin@hsr.ca.gov>; McKell, Dan@HSR <Dan.McKell@hsr.ca.gov>; Porter, Bryan(PB)@HSR <bryan.porter@hsr.ca.gov>; Stanich, Serge(PB)@HSR <Serge.Stanich@hsr.ca.gov>; Bayne, Andrew(PB)@HSR <Andrew.Bayne@hsr.ca.gov>; Patel, Manisha D. <Manisha.Patel@wsp.com>
Subject: RE: LGA Air Quality Conformity Verification

Eric,

Two quick questions on the AQ memo just for clarification.

- Was the 2014 model run for the final EIS to determine “de minimis” on the selected alternative?
- Is table 1 in the memo for the entire FB project or just the section from Wasco to Bakersfield downtown station?

Thanks,

Stephanie

From: Beightel, Eric(PB)@HSR [<mailto:Eric.Beightel@hsr.ca.gov>]
Sent: Tuesday, October 01, 2019 7:25 PM
To: Osterhues, Marlys (FRA) <Marlys.Osterhues@dot.gov>; Perez-Arrieta, Stephanie (FRA) <stephanie.perez@dot.gov>

Cc: McLoughlin, Mark@HSR <Mark.McLoughlin@hsr.ca.gov>; McKell, Dan@HSR <Dan.McKell@hsr.ca.gov>; Porter, Bryan(PB)@HSR <bryan.porter@hsr.ca.gov>; Stanich, Serge(PB)@HSR <Serge.Stanich@hsr.ca.gov>; Bayne, Andrew(PB)@HSR <Andrew.Bayne@hsr.ca.gov>; Patel, Manisha D. <Manisha.Patel@wsp.com>

Subject: LGA Air Quality Conformity Verification

Importance: High

Marlys/Stephanie –

On behalf of Mark McLoughlin (who is driving to Chowchilla at the moment) please find attached to this email a memorandum summarizing the information related to the air quality conformity determination for the Fresno to Bakersfield – Locally Generated Alternative (LGA) Supplemental Environmental Impact Statement. Pursuant to the requirements of 23 U.S.C. 327 and the NEPA Assignment MOU, FRA retains the responsibility for making air quality conformity determinations under the Clean Air Act. This memo provides relevant project history on the previous conformity determination for the Fresno to Bakersfield EIS and justification for relying on that determination for the LGA. We'd appreciate your review and confirmation that the previous conformity determination is still valid as soon as you are able – in our previous conversations you indicated that we could expect your response within 10 days or by October 10.

Please let us know if you have any questions or would like to discuss and we will arrange for a call.

Thank you,

Eric

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CALIFORNIA High-Speed Rail Authority

**(Headquarters/Environmental)_
Memorandum**

**DATE
ISSUED:** 10/01/19

EXPIRES: Not Applicable

TO: Ms. Stephanie Perez

REFERENCES:

Fresno to Bakersfield Project Section

FROM: Mark A. McLoughlin

SUBJECT: General Conformity Verification: Fresno to Bakersfield Locally Generated Alternative

The California High-Speed Rail Authority (Authority) requests that the Federal Railroad Administration (FRA) confirm that the Final General Conformity Determination for the Fresno to Bakersfield (F-B) Project Section, between the Fresno Station and Oswell Street in Bakersfield, California, remains valid for the Locally Generated Alternative (LGA) and that a new conformity determination is not needed.

Fresno to Bakersfield Environmental Impact Report/Environmental Impact Statement

The Final General Conformity Determination for the F-B Project Section was signed by FRA Administrator Joseph Szabo on June 27, 2014, and published with the Record of Decision. It was based on the condition that the Authority enter into a Voluntary Emissions Reduction Agreement (VERA) with the San Joaquin Valley Air Pollution Control District (SJVAPCD or Valley Air District) to offset construction emissions of criteria pollutants to net zero. The Authority and FRA made this commitment as part of Air Quality Mitigation Measure #4 (AQ-MM#4), "Offset Project Construction Emissions through an SJVAPCD VERA" in the F-B Revised Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS), which was shared with the public and cooperating agencies in June 2012.

In April 2014, the Authority and FRA prepared and released the F-B Final EIR/EIS, which included both Air Quality Mitigation Measure AQ-MM#4 and a Draft General Conformity Determination stating that, by entering into a VERA with the Valley Air District, the F-B Project Section would meet General Conformity requirements during construction. In May 2014 the Authority certified the F-B Final EIR/EIS, and in June 2014 FRA approved a Record of Decision, which included the Final General Conformity Determination. Construction emissions from the Final General Conformity Determination are shown in Table 1.

Central Valley Construction

After approval of the Merced to Fresno Section Final EIR/EIS (2012) and the F-B Section Final EIR/EIS (2014), the Authority procured three design-build contracts (Construction Packages [CP] 1, 2/3, and 4). The Authority developed emissions estimates based on the designs in the construction packages; provided the emissions estimates for each construction packages to the Valley Air District; and negotiated and signed individual VERAs. The VERA for CP 1 became effective July 23, 2014, while the agreement for CP 2/3 and the agreement for CP 4 were approved on January 13, 2016, and September 16, 2016, respectively. The Authority has funded the offsets. The design-build contractors report their actual emissions monthly so the Authority can confirm the emissions do not exceed the reductions specified in the VERA. The Valley Air District reports to the Authority annually to demonstrate that the construction emissions have been offset to net zero.

In addition, on November 9, 2017, the Authority issued guidance requiring the use of Tier 4 engines on all off-road construction equipment, where feasible. The guidance also mandates use of renewable diesel fuel, which is required to meet the most recent ASTM D975 specification for ultra-low-sulfur diesel and must have a carbon intensity no greater than 50 percent diesel. Renewable diesel fuel has the lowest carbon intensity among petroleum fuels sold in California.

Locally Generated Alternative Draft Supplemental EIR/EIS

Concurrent with procurement of the design-build contracts, the Authority negotiated settlement agreements with parties that litigated the California Environmental Quality Act document. Negotiations with the City of Bakersfield

resulted in an alternative station location (at F Street), and the Authority agreed to evaluate this LGA in a supplemental environmental document. When initiating the Supplemental EIR/EIS, the Authority and FRA met to develop the scope of the document. The agencies jointly agreed on which technical studies needed to be prepared in support of the Supplemental EIR/EIS and which did not need to be updated from the F-B Section Final EIR/EIS. The agencies agreed that the air quality technical report should be revised because it had been for each of the previous draft and final documents.

The Authority completed the Air Quality and Global Climate Change Technical Report for the Supplemental EIR/EIS in June 2017. Consistent with previous air quality technical reports, chapter 9 is the General Conformity analysis. The updated 2017 analysis showed that construction emissions for the F-B project section are lower when considering the LGA than they would be for the overall Preferred Alternative (which included Fresno Station to Oswell Street), as presented in the 2014 General Conformity Determination. Table 2 shows construction emissions estimates under the LGA. The emissions would be lower because, under the LGA, the station would be located at F Street, making the route shorter, with fewer structures, and it would take less time to build. The Air Quality and Global Climate Change Technical Report, on page 9-2, shows the final General Conformity Determination is still valid, and no reevaluation of the Determination is required for the F-B LGA.

The Draft Supplemental EIR/EIS, signed by the FRA Associate Administrator, was released for public comment in November 2017. The General Conformity analysis described in Section 3.3.6.1 Draft Supplemental EIR/EIS was consistent with the finding documented in the Air Quality and Global Climate Change Technical Report. That is, the final General Conformity Determination was still valid, and no reevaluation of the Determination was required for the F-B LGA (Authority and FRA, November 2017, Fresno to Bakersfield Draft Supplemental EIR/EIS, pages 3.3-44 – 3.3-46).

Comments Received on the Draft Supplemental EIR/EIS

The Authority and FRA proceeded with the development of the F-B Final Supplemental EIR/EIS, in which Volume 4 presented the comments received and their responses. One comment was received from the general public related to General Conformity. FRA had no comment on the response prepared by the Authority.

The Valley Air District had two comments on the F-B Draft Supplemental EIR/EIS:

- 1) The Valley Air District acknowledged that the Authority is committed to expanding the VERA to cover the LGA, and that the VERA resolves the original Valley Air District concerns about the project going forward in the Central Valley.
- 2) The Valley Air District pointed out that the emissions modeling used a 2011 model, though the 2014 model was available. The Authority's response is that the original evaluation was based on the 2011 model and, by using the 2011 model for the LGA, the analysis remains consistent with the 2014 EIR/EIS. The purpose for using the 2011 model is to ensure a fair comparison of the F-B project overall between the 2014 selected alternative and the LGA.

During Cooperating Agency review, the U.S. Environmental Protection Agency had no comments on air quality and stated that the Authority had responded adequately to its comments on the F-B Draft Supplemental EIR/EIS.

Final General Conformity Determination

The Authority will enter into a VERA with the Valley Air District for the LGA. The Authority has entered into VERAs prior to construction on the previous construction packages and has demonstrated their efficacy to offset construction emissions to net zero. With the LGA, the F-B Project Section is shorter, has fewer structures, and can be constructed more efficiently. The Authority has implemented more emissions reduction measures than were required in the F-B Supplemental EIR/EIS.

Based on this information, the Authority requests that the FRA confirm that the Final General Conformity Determination remains valid for the F-B Project Section, between the Fresno Station and Oswell Street in Bakersfield, for the LGA, and that a new conformity determination is not needed.

Table 1

Final General Conformity Determination Fresno to Bakersfield Project Section Annual Construction-Phase Emissions

Pollutant	Emissions (tons/year)										Conformity Applicability Thresholds (tons/year)	
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023		
NO _x	622.40	818.30	548.64	161.43	70.89	4.17	1.95	79.74	0.53	0.19	10	
VOCs	24.01	42.78	33.82	8.51	3.89	0.42	0.25	3.87	0.09	0.03	10	
PM _{2.5} *	20.20	36.47	28.66	12.03	9.67	6.94	0.14	2.49	0.05	0.02	100	
PM ₁₀	51.44	75.12	62.43	15.79	14.90	8.63	2.95	4.33	0.13	0.08	100	
CO**	Fresno	30.51	74.79	66.14	12.17	3.92	1.31	0.43	8.85	0.00	0.00	100
	Bakersfield	29.79	64.59	57.88	15.31	3.74	1.70	1.21	9.26	0.00	0.00	100

Note: **Bold** values exceed applicability thresholds.
 * Includes sulfur dioxide emission rates as a partial precursor to PM_{2.5} (i.e., it was conservatively assumed that 100 percent of SO₂ emissions become PM_{2.5}).
 ** Fresno and Bakersfield urbanized maintenance areas only.
 CO = carbon monoxide; NO_x = nitrous oxides; PM₁₀ = particulate matter smaller than or equal to 10 microns in diameter;
 PM_{2.5} = particulate matter smaller than or equal to 2.5 microns in diameter; VOC = volatile organic compound

Table 2

Fresno to Bakersfield LGA Annual Construction-Phase Emissions

Pollutant	Emissions (tons/year)										Conformity Applicability Thresholds (tons/year)	
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023		
NO _x	234.24	471.71	364.12	66.36	57.36	4.17	1.95	17.68	0.53	0.19	10	
VOCs	10.26	30.04	25.92	4.28	3.36	0.42	0.25	1.06	0.09	0.03	10	
PM _{2.5} *	8.84	25.77	22.68	9.33	9.01	6.93	0.14	0.76	0.05	0.02	100	
PM ₁₀	36.31	62.57	55.82	13.10	14.24	8.63	2.95	2.67	0.13	0.08	100	
CO**	Fresno	12.76	56.88	51.37	3.26	3.35	1.31	0.43	2.73	0.00	0.00	100
	Bakersfield	12.14	47.72	44.05	6.38	3.17	1.70	1.21	3.14	0.00	0.00	100

Note: **Bold** values exceed applicability thresholds.
 * Includes sulfur dioxide emission rates as a partial precursor to PM_{2.5} (i.e., it was conservatively assumed that 100 percent of SO₂ emissions become PM_{2.5}).
 ** Fresno and Bakersfield urbanized maintenance areas only.
 CO = carbon monoxide; NO_x = nitrous oxides; PM₁₀ = particulate matter smaller than or equal to 10 microns in diameter;
 PM_{2.5} = particulate matter smaller than or equal to 2.5 microns in diameter; VOC = volatile organic compound