



PUBLIC NOTICE

NOTICE OF AVAILABILITY

California High-Speed Rail Project – San Jose to Merced Project Section

REVISED DRAFT ENVIRONMENTAL IMPACT REPORT/SUPPLEMENTAL DRAFT ENVIRONMENTAL IMPACT STATEMENT, BIOLOGICAL RESOURCES ANALYSIS

NEW SAN JOSE TO MERCED PROJECT SECTION DOCUMENT FOCUSED ON NEW BIOLOGICAL RESOURCES ANALYSIS CONTENT

The California High-Speed Rail Authority (Authority) announces the availability of a limited revision to its previously published Draft Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for the San Jose to Merced Project Section of the California High-Speed Rail (HSR) Project. This document is entitled *San Jose to Merced Project Section: Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement, Biological Resources Analysis* (Revised/Supplemental Draft EIR/EIS). The Revised/Supplemental Draft EIR/EIS has been prepared and is being made available pursuant to both the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being or have been carried out by the State of California pursuant to 23 United States Code (U.S.C.) 327 and a Memorandum of Understanding (MOU) dated July 23, 2019 and executed by the Federal Railroad Administration (FRA) and the State of California. Under that MOU, the Authority is the project's lead agency under NEPA. Prior to the July 23, 2019, MOU, the FRA was the federal lead agency.

The San Jose to Merced Project Section Revised/Supplemental Draft EIR/EIS will be available to the public on April 23, 2021.

The San Jose to Merced Project Section Revised/Supplemental Draft EIR/EIS is available online in PDF at the Authority's website (www.hsr.ca.gov), or you can request an electronic copy by calling (800) 455-8166.

The Revised/Supplemental Draft EIR/EIS presents new biological resources analysis that was not included in the Draft EIR/EIS, as follows:

Biological Resources – New Special-Status Species

Following the Authority's publication of the Draft EIR/EIS in April 2020, the Authority learned that the California Fish and Game Commission published a notice of findings, on May 1, 2020, to designate the Southern California/Central Coast population (evolutionarily significant unit) of mountain lion (*Puma concolor*) as a candidate for listing under the California Endangered Species Act (CESA).¹ Additionally,

¹ California Department of Fish and Wildlife. 2020. *Keep Me Wild: Mountain Lion*. Available: <https://wildlife.ca.gov/keep-me-wild/lion>.

the monarch butterfly (*Danaus plexippus*) became a candidate for listing under the federal Endangered Species Act (FESA)² on December 15, 2020.

These actions by the California Fish and Game Commission and the U.S. Fish and Wildlife Service (USFWS) make the Southern California/Central Coast mountain lion and monarch butterfly subject to the definition of special-status species used by the Authority for analysis:

- “Plants or wildlife listed or proposed for listing as threatened or endangered under the federal Endangered Species Act (FESA) (16 U.S.C. § 1531 et seq.), and
- Plants or wildlife listed or candidates for listing as threatened or endangered under the California Endangered Species Act (CESA) (California [Cal.] Fish and Game Code §§ 2050–2085).”³

Both the Southern California/Central Coast mountain lion and the monarch butterfly are assumed to be present in the resource study area for the San Jose to Merced Project Section alternatives, based on historical records and existence of suitable habitat for the species. As these are new potential impacts not included in the Draft EIR/EIS, the Authority directed that the analysis of these impacts should be included in a recirculated document. Accordingly, Section 3.7, Biological and Aquatic Resources, in this Revised/Supplemental Draft EIR/EIS includes additional analysis and revised and new mitigation measures related to the Southern California/Central Coast mountain lion and monarch butterfly.

Biological Resources – Impact of Noise on Wildlife

The Authority received comments on the Draft EIR/EIS pertaining to HSR noise and the associated impacts on wildlife. The Authority determined that additional analysis and mitigation was warranted in relation to these concerns and directed this additional information to be included in a recirculated document. The Authority conducted additional analysis of mammalian responses to HSR noise sources, which is included in this Revised/Supplemental Draft EIR/EIS as Appendix 3.7-E, Supplemental Noise Analysis on Terrestrial Wildlife Species. Section 3.7 includes a summary of this additional analysis and revised mitigation to further address noise impacts on wildlife.

Biological Resources – Impact of Lighting on Wildlife

The Authority also received comments on the Draft EIR/EIS pertaining to HSR lighting, especially at night, and the associated impacts on wildlife. Commenters disagreed with the less-than-significant CEQA conclusion for Impact BIO#47, Intermittent and Permanent Lighting Disturbance of Wildlife Using Corridors during Operations, in Section 3.7, Biological and Aquatic Resources, of the Draft EIR/EIS. The Authority determined that additional analysis and mitigation were warranted in relation to these concerns and directed this additional information be included in a recirculated document. The Authority conducted additional analysis of impacts from artificial lighting on wildlife, which is included in this Revised/Supplemental Draft EIR/EIS as Appendix 3.7-F, Supplemental Artificial Light Analysis on Terrestrial Wildlife Species. This additional analysis led to a revision in the CEQA conclusion, which is now significant under all four alternatives. Section 3.7 also includes revised mitigation and a new mitigation measure to minimize the impacts of operational lighting on wildlife species.

Both CEQA and NEPA provide guidance on the recirculation and supplementation of published environmental documents. Pursuant to pertinent requirements of both laws,⁴ the Authority, as lead CEQA and NEPA agency for the San Jose to Merced Project Section, is issuing this Revised/Supplemental Draft EIR/EIS limited to the portions of the Draft EIR/EIS that require revision based on the new information

² United States Fish and Wildlife Service. 2020. *Questions and Answers: Extension of deadline for 12-month finding on petition to list the monarch butterfly under the Endangered Species Act*. Available: https://www.fws.gov/savethemonarch/extension_faqs.html.

³ California High-Speed Rail Authority. 2020. *San Jose to Merced Project Section: Draft Environmental Impact Report/ Environmental Impact Statement*, Section 3.7.5.3, Methods for Impact Analysis, page 3.7-19.

⁴ CEQA Guidelines, Section 15088.5; 40 Code of Federal Regulations (C.F.R.) Section 1502.9(c)(1)(ii). The Council on Environmental Quality (CEQ) issued new regulations, effective September 14, 2020, updating the NEPA implementing procedures at 40 C.F.R. Parts 1500–1508. However, because this project initiated the NEPA process before September 14, 2020, it is not subject to the new regulations. The Authority is relying on the regulations as they existed prior to September 14, 2020. Therefore, all citations to CEQ regulations in this document refer to the 1978 regulations, pursuant to 40 C.F.R. Section 1506.13 (2020) and the preamble at 85 *Federal Register* 43340.

described above. New information includes background information, methodology, impact analysis, and mitigation measures.

Other information that has not been revised, including the methods for evaluating impacts under NEPA and the methods for determining significance under CEQA, as well as appendices that remain unchanged, can be found in the Draft EIR/EIS. The previously published Draft EIR/EIS, including Sections 3.7 and 3.19 and Chapter 12, is available on the Authority's website (www.hsr.ca.gov).

To the extent practicable, a vertical line in the margin indicates a substantive change in the text since publication of the Draft EIR/EIS; minor editorial changes and clarifications are not identified. Changes in the Revised/Supplemental Draft EIR/EIS are primarily related to mountain lion and monarch butterfly but also include updates to other information as informed by the new or updated analysis. The Revised/Supplemental Draft EIR/EIS consists of excerpted text where updates or additions have been made. Ellipses are used to identify where text from the Draft EIR/EIS remains unchanged and, therefore, is not included in the Revised/Supplemental Draft EIR/EIS. All tables in the Revised/Supplemental Draft EIR/EIS present only information related to the new or updated analysis. The sections comprising the Revised/Supplemental Draft EIR/EIS are:

- Section 3.7, Biological and Aquatic Resources
- Section 3.19, Cumulative Impacts
- Chapter 12, References
- Appendix 3.7-A, Special-Status Species Subject to Project Impacts
- Appendix 3.7-D, Supplemental Species Habitat Model Descriptions
- Appendix 3.7-E, Supplemental Noise Analysis on Terrestrial Wildlife Species
- Appendix 3.7-F, Supplemental Artificial Light Analysis on Terrestrial Wildlife Species

The Authority reviewed other sections of the Draft EIR/EIS and found, based on research and a review of the evidence, that no other substantive changes would be required for this Revised/Supplemental Draft EIR/EIS. All other appendices to Section 3.7, as well as all technical reports supporting Section 3.7 of the Draft EIR/EIS, remain unchanged.

HAZARDOUS WASTE SITES

As previously noticed in the April 24, 2020, Notice of Availability for the Draft EIR/EIS for the San Jose to Merced Project Section of the California HSR Project, some of the facilities included in the project alternatives would be located on or near sites or facilities on hazardous materials/contaminated site lists enumerated under Section 65962.5 of the California Government Code (Cortese List).

PUBLIC REVIEW AND COMMENT PERIOD

The Authority is making this Revised/Supplemental Draft EIR/EIS available in accordance with CEQA and NEPA for a minimum 45-day review and comment period, which is equivalent to the required public notice periods for the CEQA and NEPA distributions of the Draft EIR/EIS. The Authority welcomes comments on the content of this Revised/Supplemental Draft EIR/EIS. During the minimum 45-day comment period, comments may be submitted in the following ways:

- By mail to Attn: San Jose to Merced Project Section: Revised/Supplemental Draft EIR/EIS Comment, 100 Paseo de San Antonio, Suite 300, San Jose, CA 95113
- Through the Authority's website (www.hsr.ca.gov)
- By email to san.jose_merced@hsr.ca.gov with the subject line "Revised/Supplemental Draft EIR/EIS Comment"
- Verbal comment on the direct line for the San Jose to Merced Project Section at (800) 455-8166.

The comment period is from **APRIL 23, 2021 TO JUNE 9, 2021**. Comments must be received verbally, electronically, or be postmarked on or before **JUNE 9, 2021**.

COPIES OF THE REVISED/SUPPLEMENTAL DRAFT EIR/EIS

Visit the Authority website (www.hsr.ca.gov) to view and download the Revised/Supplemental Draft EIR/EIS. You may also request an electronic copy of the Revised/Supplemental Draft EIR/EIS by calling (800) 455-8166. Printed and/or electronic copies of the Revised/Supplemental Draft EIR/EIS will be available at the following locations, during hours the facilities are open (open days/hours may be reduced for compliance with coronavirus public health and safety directives):

- Santa Clara—2635 Homestead Road, Santa Clara, CA 95051 (Central Park Library)
- San Jose—150 E. San Fernando Street, San Jose, CA 95112 (Dr. Martin Luther King, Jr. Library)
- Gilroy—350 W. 6th Street, Gilroy, CA 95020 (Gilroy Library)
- Los Banos—1312 7th Street, Los Banos, CA 93635 (Los Banos Branch Library)
- Merced—2100 O Street, Merced, CA 95340 (Merced County Library) and 2222 M Street, Merced, CA 95340 (Merced County Clerk)
- Morgan Hill—660 W. Main Avenue, Morgan Hill, CA 95037 (Morgan Hill Library) and 17575 Peak Avenue, Morgan Hill, CA 95037 (Morgan Hill City Hall, Development Services Department)
- San Benito—440 5th Street #206, Hollister, CA 95023 (San Benito County Recorder).

Printed and/or electronic copies of the Revised/Supplemental Draft EIR/EIS are also available for review during business hours at the Authority's Northern California Regional Office at 100 Paseo de San Antonio, Suite 300, San Jose, CA 95113 and the Authority's Headquarters at 770 L Street, Suite 620 MS-1, Sacramento, CA 95814. Please contact the Authority at (800) 455-8166 to make arrangements to view the Revised/Supplemental Draft EIR/EIS.

Other information that has not been revised, including the methods for evaluating impacts under NEPA and the methods for determining significance under CEQA, as well as appendices, can be found in the Draft EIR/EIS. The previously published Draft EIR/EIS, including Sections 3.7 and 3.19 and Chapter 12, is available on the Authority's website (www.hsr.ca.gov). Technical reports can be requested by calling (800) 455-8166. Electronic copies of the Tier 1 EIR/EISs, the Merced to Fresno Final EIR/EIS, and Merced to Fresno: Central Valley Wye Final Supplemental EIR/EIS are available by calling the Authority at (800) 455-8166 and can also be viewed, in printed and/or electronic format, during business hours at the Authority's Northern California Regional Office in San Jose and the Authority's Headquarters in Sacramento. These documents are not part of the current public review and comment process; however, they are available for review and reference. Authority offices may have reduced open days/hours, as required by coronavirus public health and safety directives. Please consult www.hsr.ca.gov for up-to-date information.

The Authority does not discriminate on the basis of disability and, upon request, will provide reasonable accommodation to ensure equal access to its programs, services, and activities. People with sensory disabilities may contact the Authority by phone or via the Authority website to request accessibility support.

NEXT STEPS

The Authority anticipates publishing the Final EIR/EIS in winter 2021/2022. The Final EIR/EIS will include the Authority's responses to the comments received on the previously circulated Draft EIR/EIS, in addition to responses to comments received on the Revised/Supplemental Draft EIR/EIS. Section 3.7 includes new mitigation measures that will be incorporated into the Mitigation Monitoring and Enforcement Plan to be included as part of the CEQA/NEPA decision documents. After publishing the Final EIR/EIS, the Authority Board of Directors will consider whether to certify the Final EIR and approve the preferred alternative pursuant to CEQA. The Authority, as NEPA lead agency, will also consider whether to issue a Record of Decision approving the preferred alternative.