

Appendix C: Final EIS Comments and Responses

Comment Number	Final EIS Section/Topic	Commenter	Comment	Response
F-1	Air Quality	EPA	While we recognize that the project could reduce air quality impacts by reducing freeway traffic, EPA remains concerned about localized impacts during both construction and operation. We support the decision to choose the EMU technology option, but continue to encourage FRA to commit to mitigation of localized impacts, particularly near sensitive receptors and in environmental justice communities.	Following procedures under the General Conformity Rule (48 FR 63214), the FRA assessed the potential for the Project to result in a CO hotspot. These analyses were conducted near all proposed station area sites in Victorville and Las Vegas, including Central Station B, which is most proximate to sensitive receptors; both Victorville Station 3 and Las Vegas Central Station B are located in or adjacent to an environmental justice community. The analysis found that the addition of project related traffic would minimally increase CO levels above baseline measurements at various locations around the proposed stations. As such, no mitigation was found to be necessary for localized operational air quality impacts. The Final EIS acknowledges the potential for the project to result in construction period impacts. To minimize such effects, three air quality mitigation measures were included in the Final EIS and are incorporated in this Record of Decision as measures to minimize harm during the construction period.
F-2	Air Quality	EPA	In our comments on the DEIS, we noted the absence of a thorough discussion of localized PM10 air quality impacts and we recommended that the FEIS include a qualitative analysis of potential PM10 hot spot impacts. The FEIS states that it is appropriate to predict concentrations of PM10 and PM2.5 on a regional and localized basis, and includes an analysis of CO hot spot impacts, but does not contain an analysis of localized PM10 impacts.... We remain concerned about potential hot spot impacts during construction. While the FEIS indicates that the mitigation measures will reduce total emissions levels, the FEIS does not justify that sensitive receptors in the vicinity of construction activities will not experience adverse impacts. For example, the FEIS notes that single-family residential development is located approximately 250 feet to the north and to the south of the proposed Frias Substation. We also note in our comments below the proximity of residential areas to the Preferred Alternative Las Vegas Central Station B site option. In order to mitigate potential adverse impacts to sensitive receptors in the vicinity of construction activities, we encourage FRA to include commitments to aggressive mitigation measures in the ROD.	In assessing project impacts, the FRA followed procedures set forth in the General Conformity Rule (48 FR 63214). Under the General Conformity Rule, projects are not required to undergo an assessment of particulate matter concentrations. Particulate matter concentration “hot spots” must be assessed for projects subject procedures set forth in the Transportation Conformity Rule (40 CFR 51 and 93); these procedures apply only to projects whose lead agency is either FHWA or the Federal Transit Administration. The FRA did evaluate particulate matter effects for project construction and operations. For construction, PM10 levels were all below the General Conformity de minimis threshold in both the operative air districts. During project operations, PM10 levels in the respective air basins would be substantially reduced as a result of diverting automobile trips to the electric-powered train. As noted above in the response to comment F-1, the analysis identified no effects related to localized CO concentrations as a result of the Project; mitigation has been incorporated to address localized construction-period air quality effects.
F-3	Air Quality	EPA	The FEIS states that construction activity would result in pollutant levels that would exceed general conformity de minimus levels without mitigation. It states that Mitigation Measures AQ-1, AQ-3, and AQ-5 will be required to reduce construction period emissions to below general conformity de minimus thresholds. Accordingly, FRA should commit to the mitigation measures that will reduce emissions to below the de minimus level in the ROD. All applicable state and local requirements for reduction of PM and other toxics from construction-related activities should also be included in the	The Final EIS acknowledges the potential for the project to result in construction period impacts to air quality. To minimize such effects, three air quality mitigation measures were included in the Final EIS and are incorporated in this Record of Decision as measures to minimize harm during the construction period.

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			ROD.	
F-4	Air Quality	EPA	The FEIS response to comments section states that the locations where traffic levels would be the highest would be at passenger stations, and that the Victorville and Las Vegas passenger stations are not located near sensitive land uses. However, we note that the FEIS provides information to the contrary, stating in the Land Use and Community Impacts Chapter of the FEIS that residential uses are within approximately 300 feet of the Preferred Alternative Las Vegas Central Station B site option and that the residents could be exposed to air quality, traffic, and noise impacts associated with the station. EPA has concerns about potential MSAT impacts to these residents, particularly because this is an environmental justice community. In order to mitigate potential adverse impacts to this community, we encourage FRA to include commitments to aggressive mitigation measures in the ROD, including design options to minimize MSAT and other localized air emissions.	Please see the response to comment F-1 above regarding evaluation of potential pollutant concentrations near the Las Vegas Central Station B site. Also, as stated in Draft EIS Section 3.11.1.6, the EPA has not yet released guidance on how to evaluate the effect of future rail lines on ambient concentrations of urban air toxics in the context of NEPA. Furthermore, no Federal, California or Nevada ambient standards exist for mobile source air toxics. Specifically, EPA has not established NAAQS or provided other project-level standards for hazardous air pollutants. FRA communicated with the EPA in a conference call on April 24 2011, during which the FRA agreed with EPA's that any future Las Vegas passenger rail station should be well-served by public transportation options, reducing the need for individual automobile travel and thus resulting in lower emissions of air pollutants in and around the station site. As indicated in this conference call, the Applicant has initiated discussions with transit service providers in the Las Vegas area to identify how either of the Las Vegas station site options might be served by the rerouting of existing bus lines or the introduction of new lines. As described in Final EIS Section 2.3.2.2 and depicted in Supplemental EIS Figure S-2-6, station design in both Victorville and Las Vegas will be able to accommodate bus ingress and egress.
F-5	Alternatives	Olympia Companies	It appears that there are options for both the West and East side of I-15.... [Olympia Companies] strongly encourages using the East side of I-15 for the alignment of this facility. There is none or very minimal residential on the East side. Also, many if not most of the people that will use the DesertXpress are coming to visit The Strip (which is located on the East side of I-15).	In Segment 6, which includes the metropolitan Las Vegas area, the alignment alternative selected for the Preferred Alternative is Segment 6B, which runs on the west side of the I-15 freeway. The other alignments evaluated for this area were Segment 6A, which would run in the median of the I-15 freeway, and Segment 6C, which would run along the Union Pacific Railroad corridor west of I-15. Per Final EIS Table F-2-5, an alignment outside the I-15 corridor between Primm and Las Vegas was considered but dismissed from further analysis owing to the developed nature of the lands outside the freeway corridor, and the resultant potential to traverse developed properties.
F-6	Alternatives	Glendon	Who is going to ride a train with a destination like Victorville? Consider the magnetic train plan directly to Anaheim, CA. Futuristic, creative – makes sense.	The Applicant has demonstrated (through the ridership study, which FRA independently reviewed and verified) that there are logical reasons and reasonable expectations of ridership associated with a Victorville station. For example, FRA's independent review conducted by Cambridge Systematics states that "the location of the Victorville terminal would be passed by virtually every auto traveler going between Southern California and Las Vegas." Ridership Forecast Review at 5 (Feb. 2008). Similarly, another independent review conducted by Steer Davies Gleave provides: "The DesertXpress High Speed Train is to run from Victorville, CA to Las Vegas, NV. Victorville is 80 miles northeast of downtown Los Angeles and located on the existing I-15 highway running between LA and Las Vegas. All drivers travelling from Southern California to Las Vegas must pass Victorville" DesertXpress Ridership & Audit Ridership & Revenue Audit Technical Memorandum: FRA Summary at 2 (Sept. 2007). See Figure D of the Final EIS Project Background and Executive Summary chapter. Please see Final EIS Section 1.6.1, which describes the relationship between the DesertXpress Project and the California-Nevada Interstate Maglev Train project. Also see Section 1.6.2 of the Final EIS, which describes the potential for a future connection to a southern California high-speed rail station (Palmdale) as a separate project with

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				independent utility from DesertXpress.
F-7	Alternatives	City of Las Vegas	The downtown area includes approximately 99 hotels and motels, including 17 casinos with a combined room capacity of 15,561. In addition, the Fremont Street Experience has a daily visitor attendance of approximately 25,000 people. The exclusion of the Downtown Station from the preferred alternative of the Environmental Impact Statement will result in the further bifurcation of Las Vegas tourism between the southern Las Vegas Boulevard and the City of Las Vegas Downtown. The omission of the Downtown Station from the proposed DesertXpress project is a detriment to the City of Las Vegas and the Las Vegas valley as a whole. Please reconsider the preferred alternative.	This comment indicates the City's preference for the Las Vegas Downtown station, which was not included in the Agency Preferred Alternative. Both the Las Vegas Southern Station as well as the Central Station B sites have been included in the Agency Preferred Alternative. These sites are in closer proximity to the Las Vegas Strip, which is estimated to have over 60,000 hotel rooms and consequently contains many of the visitor-serving uses the DesertXpress project would serve. Employing the Downtown station would also require the longest length of track and the longest travel time of all station sites considered and thus would be the most costly to construct and operate and could also hinder ridership. Moreover, in a comment letter on the Supplemental Draft EIS, (S-41) the Nevada Department of Transportation advised the FRA of a probable lack of space to accommodate the Segment 7A or 7B alignments within the I-15 corridor. (See Final EIS Table F-4-2, comment S-41). For these and other reasons outlined in Section 4.3.1 of this Record of Decision, the FRA and the Cooperating Agencies did not include the Downtown Station in the Preferred Alternative.
F-8	Alternatives	Dean Martin Rural Neighborhood Preserve Association	Utilizing the I-15 corridor would curtail long-term land development of the area and create blight.	The I-15 freeway is a long-established transportation corridor. The Project proposes adding a high-speed passenger rail to this existing transportation corridor. The presence of the freeway has established and determined development patterns in the metropolitan Las Vegas area and elsewhere. The Nevada Department of Transportation plans to expand the width of the freeway to up to 14 lanes in some portions of metropolitan Las Vegas. Previous expansions of the freeway have opened new areas to urbanizing development rather than create blight. The addition of high-speed passenger rail service into this corridor would not fundamentally change the transportation purpose of the corridor. The FRA finds no evidence to support the claim that blight would result with the addition of high-speed passenger rail service into the existing freeway corridor.
F-9	Alternatives	Marks	Ridership estimates are overstated. Our analysis concludes that people living in Las Vegas desiring to go to San Diego, CA; Los Angeles; San Fernando Valley; Arrowhead and Big Bear Resorts; the Reagan Library; Disneyland or southern parts of Ventura County would not be interested in taking a train to Victorville so that they could rent a car and drive to their selected destination. The larger the family the greater the probability that travel by vehicle would be less expensive than the Desert Express. Even more significantly, is that it is our understanding that the ridership estimate was provided by the same firm that estimated the ridership for the Las Vegas Monorail system which proved to be inaccurate.... the basic argument for building the system is that it will reduce traffic on Interstate 15 between Las Vegas and the metropolitan Los Angeles and Southern California areas as well as contribute to a reduction in accidents on the Interstate 15 corridor. Since you can not force ridership the assumption that traffic will be reduced significantly is flawed. People in the Western U. S. are very mobile and car oriented for recreational purposes. It well established that individuals or families utilizing air transportation rent vehicles at their destination as opposed to seeking public transportation. The exception being foreign citizens or people from heavily urban areas with extensive public transportation infrastructures.	Please see response to F-6. The Applicant has demonstrated (through the ridership study, which the FRA independently reviewed and verified) that there are logical reasons and reasonable expectations of ridership associated with a Victorville station.
F-10	Alternatives	Marks	The few minute difference between the EIS selected alternative terminus at Las Vegas (i.e., South of Flamingo Road and West of Interstate 15 would require extensive infrastructure adjustments that	Segment 6C, evaluated by the FRA and the Cooperating Agencies, would have used the Union Pacific Railroad corridor for new high-speed passenger rail tracks. However, as

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			Clark County can not afford. Such infrastructure improvements would involve road and bridge realignment; public parking; taxi; bus and public transportation staging areas. Alternative 6B with a downtown terminus, although slightly longer in travel time (literally 15 minutes) would utilize the existing Union Pacific right of way and terminate in an area which would benefit from redevelopment; has ample parking; public transportation and can easily meet other infrastructure requirements.	noted in Section 4.3 of this Record of Decision, the Union Pacific Railroad declined to allow the shared use of its land corridor, effectively resulting in an insurmountable land use conflict. Consequently, the FRA and the Cooperating Agencies could not have selected Segment 6C as part of the Preferred Alternative. Please see Section 4.3 of this Record of Decision for other factors considered by the FRA and the Cooperating Agencies in the selection of the Preferred Alternative for Segment 6.
F-11	Alternatives	Marks	It is our understanding that the Desert Express project is designated as privately funded. As such, the FRA acting on behalf of the Federal Government can only provide loan guarantees and limited grants were existing rail systems are upgraded. This raises several questions. The project is currently estimated at roughly \$ 6 Billion dollars. However, we are all painfully aware that this project like others of its kind (e.g., Washington Metro) will see estimated cost increase substantially before project completion. It is a certainty that additional funding will be required. If the Federal Railway Admin. under the DOT is unable to provide additional funding support for the project and the entrepreneurs who started the project cannot raise additional capital, who will be finish and operate the project? Will the public receive a form of "Quit Claim" and this elephant becomes a burden on the public it should never have had.	Please refer to Final EIS Section 1.5.1 for a discussion of the FRA's Railroad Rehabilitation and Improvement Financing Program (RRIF).
F-12	Alternatives	Marks	Since the loan guarantee from the FRA is federal money does it come with restrictions such as: Builder must use Union Labor; and all equipment must be purchased from U.S. companies and fabricated in America. The required use of Union Labor will certainly increase the estimated cost of build out. In addition, there is no passenger rail car company or light rail manufacturer in the U.S.; hence, all rail vehicles, parts and operating equipment will have to be acquired from a foreign source. This represents an outflow of U. S. funds without a corresponding inflow of funds. Such a situation represents a negative to the U. S. World Trade Deficit.	Please refer to Final EIS Section 1.5.1 for a discussion of the FRA's Railroad Rehabilitation and Improvement Financing Program (RRIF).
F-13	Alternatives	City of Barstow	Rather, a reasonable range of alternatives are those that can be carried out based on technical, economic, environmental, and other factors, and not only alternatives that are desirable to the applicant. In some cases, a lead agency may need to include alternatives that are outside the legal jurisdiction of the lead agency or even alternatives that require legislation. No true alternatives to the proposed Project were considered or analyzed in the FEIS, the Draft EIS or the Supplemental Draft EIS. The FEIS mentions only two other alternatives that were rejected, one along the Union Pacific Railroad ("UPRR") railroad alignment and the other involving much of the same route as the proposed action, but with a portion of the route through urbanized portions of the Las Vegas Valley. There are many other alternatives the FRA could have considered that would have satisfied the purpose to move traffic from Southern California to Las Vegas and the need to reduce traffic on the only route available, I -15, including constructing an additional highway, adding bus routes, and constructing rail lines in locations other than along the I-15 corridor. None of these options were considered (with the exception of the rejected alternative along the UPRR Railroad).	As documented in Final EIS Section 2.2, the FRA and the Cooperating agencies underwent a full alternatives analysis process to identify all reasonable alternatives that would meet the Project's Purpose and Need. .This section describes in detail the process considered in screening alternatives in light of the Purpose and Need identified for the Project (which is articulated in Final EIS Section 1.0). Construction of additional highway or additional bus routes would not satisfy the purpose and need of the Project which is to provide proven high-speed intercity passenger rail as an alternative to highway transportation options. In addition, Table F-2-5 within this section notes that various alignment segments following the UPRR Corridor were considered but rejected for various environmental and economic factors that made such segments infeasible. Please also see Final EIS Chapter 4 (Comments and Coordination), Table F-4-1, comment numbers 275 and 276, in which the Union Pacific Railroad expressed its opposition to the possible shared use of their right-of-way and trackways between Daggett, California and Las Vegas, Nevada. The FRA cannot compel the shared use of this privately-held right-of-way.
F-14	Alternatives	City of Barstow	Most egregiously, the EIS describes - but deliberately excludes from comparison with the proposed Project -- the maglev project. In other words, the FRA considers these two projects to be true alternatives to one another - they each satisfy the same purpose and need and the construction of one will obviate the need for the other. (Id.) NEPA requires that competing projects be analyzed in a single document, not ignored and considered in separate documents as if the other did not exist. Furthermore, as noted above in the City's comments on the EIS statement of purpose and need, the	Please refer to Final EIS Section 1.6.1, which discusses the California-Nevada Interstate Maglev Train proposal and its relationship to the DesertXpress project NEPA process. The FRA did respond to the comment submitted by the City of Barstow and specifically addressed the comments raised about purpose and need and comparison with the proposed maglev project; please see Final EIS Chapter 4, Table F-4-2, responses to comment S-56, S-271 and S-272.

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			DesertXpress and maglev proposals are even more directly comparable than they were when the DEIS and SDEIS were circulated, since the FEIS discloses that the DesertXpress, like the maglev, may receive public financing...The City expressed great concern in its October 15, 2010 comment letter ("comment letter") that the DesertXpress EIS subverts the purpose of environmental review under NEPA by defining- or at least interpreting- its statement of purpose and need so narrowly as to artificially exclude any analysis of a viable, existing alternative with the potential to avoid adverse impacts on the City. This comment was not even addressed in the FRA's responses to comments in the FEIS (see Table F-4-2, Response to Comment No. S-56), nor was the document revised in any way to correct this significant deficiency. Interpreting the statement of purpose and need so narrowly as to exclude consideration of any "build" alternatives other than those proposed and privately financed by the Project applicant is a clear violation of NEPA. This error is particularly egregious and striking when there is an existing, feasible maglev alternative that could potentially reduce or avoid significant impacts of the Project.	Please refer to Final EIS Section 1.5.1 for a discussion of the FRA's Railroad Rehabilitation and Improvement Financing Program (RRIF).
F-15	Alternatives	San Manuel Band of Mission Indians	The existing railroad right of way was discarded early on as an alternative. The alternatives evaluated in FEIS running in the I-15 corridor are really the same alternatives with minor deviations.	Please see the response to comment F-13 above.
F-16	Alternatives	EPA	We note that FRA is the lead federal agency for the proposed California-Nevada Interstate Maglev project as well as the DesertXpress project. Our comments on the DEIS had questioned how these two projects, both proposed for the same transportation corridor, would ultimately be compared in terms of fulfilling the purpose and need of providing passenger rail in the same corridor, while minimizing impacts. We continue to believe that FRA should provide a comparison of the potential costs, benefits, and environmental impacts of these two competing proposals so that decision-makers can clearly see a comparison of the potential costs, benefits, and environmental impacts of each technology....	Please refer to Final EIS Section 1.6.1, which discusses the California-Nevada Interstate Maglev Train proposal and its relationship to the DesertXpress project NEPA process.
F-17	Alternatives - Ridership	EPA	However we continue to have concerns about the fact that the ridership and market projections discussion included in the FEIS is based on the DesertXpress Updated Ridership and Revenue Study prepared in December 2005 and the DesertXpress Ridership Forecast Review prepared in February 2008, and does not consider the economic downturn of the past few years, as we recommended in our DEIS comments. FRA has stated that information they have received indicates that travel in this corridor has increased in recent years despite the economic downturn. However, in the absence of a more recent ridership study, EPA remains concerned about the FEIS conclusions.	The commenter alludes to highway vehicle count information compiled and published by the Las Vegas Convention and Visitors Association (LVCVA). The LVCVA tracks a variety of visitation-related data. The LVCVA obtained traffic counts from NDOT roadway sensor data on I-15 at the California/Nevada state line – an important indicator of the total vehicle traffic entering the state from southern California. For 9 of 12 months in 2010 and 3 of the 4 months between January 2011 and April 2011, the NDOT recorded a percentage increase in the number of vehicles entering Nevada over the same period 1 year prior. In other words, for 9 of 12 months in 2010, the number of cars entering Nevada from California increased over the same 9 months in 2009. Looking over entire year-long periods, average daily traffic levels entering Nevada at the California border decreased slightly between 2007 and 2008, but increased in 2009 and 2010, such that by year-end 2010, the average daily vehicle count returned to 2006 levels. The FRA believes that the conclusions of the ridership studies and ridership reviews completed between 2005 and 2009 remain essentially valid insofar as the cited data indicate that vehicle traffic entering Nevada from California has not substantially decreased due to the recession that began in 2007.

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				For further information, see Las Vegas Convention and Visitors Authority, Historical Las Vegas Visitor Statistics, 1970-2010. Updated February 25, 2011; Las Vegas Convention and Visitors Authority, 2011 Las Vegas Year-to-Date Executive Summary (January – April); 2010 Las Vegas Year-to-Date Executive Summary (January – December). Accessed June 9, 2011 at http://www.lvcva.com/press/statistics-facts/visitor-stats.jsp
F-18	Biological Resources	City of Barstow	The Biodiversity Guidance explains that NEPA documents cannot limit their analysis of biological impacts to an assessment of impacts on species protected under the Federal Endangered Species Act. Rather, adequate consideration of impacts on biological resources in NEPA documents includes an analysis of impacts on non-listed species, state protected species, areas that are important to biodiversity even though they may not have an official designation, ecosystem impacts and cumulative impacts.	Please refer to Draft EIS Section 3.14.2.2, which outlines the initial consultation process the FRA and its third-party consultants followed in scoping the biological resources evaluation for the Project. This consultation included both federal and local resource agencies; the analysis in the NEPA documents encompassed all species and habitat areas agreed to by the interested federal and state agencies. For example, the Mohave Ground Squirrel is not a federally listed species; nonetheless, a complete analysis of potential effects to this species was included in the EIS.
F-19	Biological Resources	City of Barstow	The project study area for biological impacts is the Project footprint. This was not changed in the FEIS despite the City's detailed comments explaining that this approach to the analysis of impacts on biological resources is wholly inadequate under NEPA. Limiting the area of evaluation to only those areas where the Project will be constructed reduces the assessment to a snapshot of impacts to individual animals or plants who are located there at the time of the work. There is no assessment of impacts on the ecosystem or on the biodiversity of the region. This myopic review does not provide an assessment of the impacts on biological resources and fails to comply with the mandates of NEPA.	The FRA disagrees that the Project's study area was limited to the Project footprint. Please refer to Draft EIS Section 3.14.4.2, which noted that a 400 foot wide limit of disturbance was evaluated for the biological resources evaluation. These parameters were established in early consultation meetings with federal and state resource agencies; please see Draft EIS Section 3.1.4.2.2 for more information. When built, the actual width of the rail corridor would typically be 60 feet; even narrower in limited locations. Therefore, the use of a 400-foot wide corridor to determine impacts was developed in consultation with the resource agencies as a conservative measure that would fully capture all direct and indirect effects of project construction and operation. The FRA's analysis examined the full limit of disturbance in considering possible impacts to biological resources.
F-20	Biological Resources	City of Barstow	The documents concede that essential information about various plant species was not obtained prior to the issuance of the DEIS (pp. 3.14-16 and 3.14-53), the SDEIS (p. 3.14-16) or the FEIS (p. 4-92, Table F-4-2, response to comments), due to the prolonged drought in the region. The FEIS and draft documents indicate that such surveys will be conducted prior to beginning construction on the Project. (Id.) Even if such studies are completed prior to breaking ground, the information obtained will only be available to mitigate impacts on site, it will not be available to inform the public or the decision-makers in assessing the environmental impacts of the different alternatives before the decision on the Project as mandated by NEPA.	Although a protocol level survey was not conducted within the immediate I-15 corridor due to drought conditions at the outset of the project's environmental review process (2006 and 2007), information on plants within the immediate I-15 corridor is very well documented; available resources formed an adequate basis for determinations regarding potential impacts to plants in this area. Please see Final EIS Section 3.14.2.1, page 3.14-17, for further discussion of this issue. Also see Final EIS Section 3.14.2.3, page 3.14-22, which notes that conducting preconstruction presence/absence surveys would provide the most robust and accurate data on vegetative resources. A full botanical survey was conducted for Segment 4C, the only portion of the proposed rail alignment that substantially deviates from the I-15 corridor.
F-21	Biological Resources	City of Barstow	The FEIS and draft documents only provide a general, conclusory statement of the impact of the various alternatives on specific biological resources in terms of acreage, with no connection between the acreage affected and the population or individual animals/plants. The FEIS adds no new analysis, but instead concludes that the analysis in the draft documents is sufficient. None of the documents analyzes the loss of habitat, changes to habitat, loss of individuals, or other impacts on the local populations, the ecosystem or the biodiversity in the area despite the FRA's response to the City's comment indicating that such information has been provided. (FEIS, Table F-4-2, p. 4-92.)	Please see Final EIS Section 3.14.2.3, which provides detailed accounts of potential direct effects to investigated species as well as to related habitat areas.
F-22	Biological Resources	City of Barstow	Furthermore, there is no assessment of the impact on the multi-species habitat conservation plans that are within the Project impact area, or the preserves or special habitat areas other than	The Draft EIS, Supplemental Draft EIS, and Final EIS all considered the various habitat conservation plans that exist in the project area. These plans were identified in Section

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			conclusory statements that impacts will be minimal. The City made this comment to the SDEIS. In response, the FEIS now identifies various multi-species habitat conservation plans that are within the Project impact area, applicable regulations, and certain wildlife action plans, but there is still no assessment of the impact of the preferred alternative or any of the other alternatives on the biological resources in the impact area of the proposed Project or alternatives or on the ability of the identified plans to achieve their conservation goals in light of the potential impacts from this Project. The FEIS and draft documents contain no explanation of the scope of the impacts or how they relate the thresholds of significance.	3.14.1.2 and 3.14.1.3 of the Draft EIS. Species covered by applicable plans were assessed in all of the aforementioned environmental documents. In particular, Final EIS Section 3.14.2.3 identifies potential effects to the several reptile species covered under the Clark County Habitat Conservation Plan.
F-23	Biological Resources	City of Barstow	Finally, the City notes with disappointment that the UFWS Biological Opinion for the DesertXpress Project was not complete by the time of preparation of the FEIS, and is in fact not even expected to be submitted until April 30, 2011 -only two days before the close of comments on the FEIS. (FEIS, p. 1-10.) The absence of a final Biological Opinion undercuts the conclusions of the FEIR, and hampers public and agency review of the FEIS.	Although consultation under Section 7 of the Endangered Species Act and preparation of an environmental impact statement are separate processes, the FRA included as an appendix to the Final EIS the Biological Assessment submitted to the USFWS as part of the Section 7 consultation. NEPA does not require the completion of the Section 7 consultation prior to publication of a Final EIS. The Final EIS included a complete assessment of impacts. , Avoidance measures identified in the Biological Opinion are included in this Record of Decision, and do not conflict with the mitigation measures in the Final EIS.
F-24	Biological Resources	San Manuel Band of Mission Indians	To the Serrano peoples, the route of the DesertXpress is significant in that it follows, in part, the course of the Mojave River, an important part of the Serrano ancestral homeland. As planned, the DesertXpress, starts in Victorville where it crosses the Mojave River and cuts overland to Barstow where it again crosses the river and follows it eastward toward Baker.	The comment appears to state that trains associated with the Project would cross the Mojave River in Victorville. However, the Victorville Passenger Station and OMSF are a minimum of 5 miles from the Mojave River; the only rail crossing of the Mojave River would be in Barstow, immediately adjacent to where I-15 crosses the river. The only project facility that would cross the Mojave River in Victorville is an electric utility corridor consisting of overhead power lines linking OMSF 2 to an existing substation near the Southern California Logistics Airport in Victorville. The utility line would span the river; no towers would be placed in the river. Given that the utility line crossing would occur near areas of industrial development and another railroad, the incremental effects of the project's utility corridor crossing the river were found to be minimal.
F-25	Biological Resources	EPA	We acknowledge FRA's plan to coordinate with wildlife agencies in the design and spacing of culverts and fencing, to ensure that appropriate wildlife crossings are available. FRA should commit to this coordination in the ROD to ensure appropriate design and location of wildlife crossings.	All mitigation measures identified in the Final EIS are incorporated as measures to minimize harm in this Record of Decision.
F-26	Cultural Resources	29 Palms	The Desert Xpress Final Environmental Impact Statement fails to adequately evaluate the nature and extent of cultural resources that will be impacted and fails to identify adverse impacts, mitigation and treatment measures to cultural and biological resources. The proposed project will cause significant adverse impacts to the big horn sheep and desert tortoise, animals that are considered a cultural resource to Native Americans.	The FRA disagrees with several assertions within this comment. The nature of impacts to cultural resources is fully described in Final EIS Section 3.7.2.3; biological resource impacts, including those to the cited species, are described in full within Final EIS Section 3.14.2.3. Cumulative impacts to cultural resources were fully assessed in the Final EIS (see page 3.16-28, Section 3.16.3.10). The Final EIS also fully assessed cumulative impacts to biological resources (Final EIS page 3.16-39, Section 3.16.3.17). In certain locations, particularly where the proposed rail alignment would deviate substantially from the developed I-15 freeway corridor in the Mountain Pass area, the combined effect of the Project and other projects in the vicinity would result in cumulative impacts under NEPA to desert tortoise and desert tortoise habitat, as well as to other sensitive species in this area, which include big horned sheep.

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F-27	Biology	NV Dept of Wildlife	The Department is pleased that the Project's Preferred Alternative does not deviate from the I-15 freeway and Union Pacific Railroad transportation right-of-ways described for segments 5A, 5B, 6A, and 6C (Clark County, Nevada). These Preferred Alternative segments pose the least adverse effects to Nevada's wildlife resources. However, as indicated in our comments to the Draft EIS, there is still potential for individuals of species (including State protected) coming into harm's way. Heightened attention to the banded Gila monster and burrowing owl along segments 5A and 5B would be appreciated as for all intents and purposes they would be associated with the desert tortoise as discussed in chapter section 3.14.2.3 <i>Preferred Alternative</i> on pages 3.14-23 through 3.14-30 and but not clearly reflected in the summaries in Tables F- 3.14-1 through F-3.14-3.	The comment is noted. Potential construction period effects to the cited species were noted in Final EIS 3.14.2.3 on pages 3.14-28 and 3.14-29. Mitigation Measure BIO-21 specifically addresses potential effects to burrowing owls. Final EIS Section 3.14.2.3 notes that there are no known occurrences of the banded gila monster in the vicinity of the Project; nonetheless, Mitigation Measure BIO-2 specifically provides for preconstruction surveys to detect the presence/absence of this species. The measure also provides a protocol in the event banded gila monsters are subsequently observed within work areas. In addition, several other mitigation measures are intended to protect multiple species during project construction and operation through protective fencing, construction worker training, ongoing construction period monitoring, and several other means – see Mitigation Measures BIO-1, the remainder of BIO-2, BIO-3, and BIO-5.
F-28	Comments/Coordination	Dean Martin Rural Neighborhood Preserve Association	Existing property/home owners within 500 feet of the "Preferred Alternative" route within the Dean Martin corridor were not properly notified.	Please see Section 4.2 of the Final EIS for a thorough discussion of the FRA's public involvement efforts for the project since project inception. Notice regarding the availability of environmental documents was sent to property owners of record within 500 feet of the project. The FRA updated its property owner mailing list immediately prior to the distribution of this notice and sent notices of Final EIS availability in March 2011 to all property owners within 500 feet of the Preferred Alternative rail alignment. In addition, as described in the notices of availability published in the Federal Register, copies of the EIS documents were sent to local libraries and were available for download on the FRA website.
F-29	Comments/Coordination	Marks	Upon contacting your local representative we were advised that selection from the various alternatives had been made and that the Final EIS was perfunctory in nature.	The Final EIS identifies the Preferred Alternative of the FRA and the Cooperating Agencies which was then made available for public review and comment. The FRA and the Cooperating Agencies will consider all comments received during the review period in making their decisions regarding the project. The agencies view this process as an important part of the NEPA review process.
F-30	Comments/Coordination	Marks	The process itself did not allow sufficient time for the public to respond since the average public was kept in the dark about specifics. More importantly, 2-3 hours for public testimony at Las Vegas seems rather limited without specific notification to affected areas such as Enterprise Township and Spring Valley Township.	Please see the response to comment F-28. The commenter appears to be referring to public hearings held on the Supplemental Draft EIS (October 2010) or the Draft EIS (April 2009). These meetings were extensively noticed, as noted in comment F-28. Everyone in attendance who completed a speaker request card was given the opportunity to provide oral comments to FRA staff present. The FRA also invited public comment by mail and email.
F-31	Comments/Coordination	San Manuel Band of Mission Indians	The Federal Railroad Administration ("FRA") has not engaged in meaningful consultation with the Tribe... The Tribe made a request for completion of site record forms for historic properties and requested the opportunity to comment on historic property inventory reports as part of identifying cultural properties. Only a few consultation meetings were held, and only two in 2010 (January and September) requested by Tribal representatives. As indicated NEPA requires consultation with Tribes on impacts to the human environment, including relationship of people to the environment, cultural and social effects. NEPA requires consultation with Tribes about impacts to sacred sites. NEPA requires consultation on mitigation. This has not occurred.	As detailed in Final EIS Section 4.1.1 and Draft EIS Section 3.7.2.1, the FRA began outreach to Tribes as early as 2007 and continued consultation efforts through preparation of the EIS documents. Staff from the FRA traveled several times from Washington, DC to Southern California and Nevada for several government-to-government consultation meetings, which are described in more detail in Final EIS Section 4.1.1. In addition, the FRA's third-party contractors met with interested Tribes on numerous other occasions as documented in Final EIS Section 4.1.1. The FRA believes these and other outreach efforts yielded very meaningful consultation. With regard to the request for completion of site record forms, the FRA acceded to the cited request, preparing approximately 70 site records for prehistoric resources; the selection of these sites for recordation was done in consultation with the BLM and interested Tribes. These site records were sent to the tribes and BLM in August of 2010.

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				With regard to sacred site, please see the response to comment F-34.
F-32	Comments/Coordination	29 Palms	The Federal Railroad Administration, the lead federal agency in the project, has failed to engage in meaningful government to government consultation with the affected Tribes on the issues described above. The unique government to government relationship with Tribes requires federal agencies including the FRA to obtain meaningful and timely input from tribes on matters that significantly or uniquely affect tribal communities.	Please see the response to comment F-31.
F-33	Cultural Resources	San Manuel Band of Mission Indians	The FEIS contains inadequate information as to the nature, significance and extent of the cultural resources and historic properties, as this evaluation has been impermissibly deferred. The preferred alternative contains 77 prehistoric sites and 17 that contain a mixed assemblage of pre-historic and historic sites...The required evaluation of these sites and assessment of short and long term adverse impacts, mitigation and treatment to cultural resources is impermissibly deferred until later per a programmatic agreement and will occur after project approval and public review...The Final EIS does not adequately evaluate the affected cultural environment...The Final EIS does not adequately analyze the cultural impacts of the preferred project alternative because there is a lack of information on the significance of the cultural resources to the Tribe and the other affected tribes.	As described in Section 3.7.2 of the Final EIS, the Project is utilizing a Programmatic Agreement (PA) approach in fulfillment of requirements under Section 106 of the National Historic Preservation Act. This approach was developed for the project in consultation with the federal Cooperating Agencies, the California and Nevada State Historic Preservation Officers (SHPOs), and the Advisory Council on Historic Properties (ACHP). The Final EIS included a fully executed copy of the PA. All Tribes with whom the FRA has consulted on the Project were invited to comment on multiple drafts of the PA and were similarly invited to sign the PA as concurring parties. FRA and the Cooperating Agencies gave due consideration to the comments on the PA submitted by the Tribes. However, only one Tribe, the Las Vegas Paiute, opted to sign. Nevertheless, signing the PA is not a condition to future participation in the assessment of cultural resources. The PA for the Project defines a phased approach that permits all formal eligibility determinations to be made after the Preferred Alternative is identified and ratified by the Lead and Cooperating Agencies via Records of Decision on the proposed action. Eligibility determinations will be made by the appropriate agency (in this region, either the BLM or a SHPO), based on information presented in completed state-appropriate site records forms. This approach is consistent with 36 CFR 800.4(b)(2). The terms of the PA also require preparation of a Historic Properties Treatment Plan (HPTP) and a NAGPRA Plan of Action based on findings from the evaluation and assessment process. Notwithstanding, the FRA, through its formal government-to-government consultation as well as through other informational consultation, has advised all Tribes of the extensive efforts that were made to identify and assess cultural resources in the preparation of the Draft EIS, Supplemental Draft EIS, and Final EIS. These efforts included literature searches and pedestrian surveys that identified a total of 254 cultural sites within the Area of Potential Effect (APE) for the Preferred Alternative. In addition, despite the terms of the PA allowing for a phased evaluation of resources, the FRA prepared site records for 70 prehistoric resources identified by the FRA, the BLM, and certain participating Tribes as being of the most critical concern. These efforts collectively provided the FRA and the Cooperating Agencies with ample information regarding the affected environment of the Project in terms of cultural resources; these efforts formed a more than adequate basis upon which the FRA developed the PA for the Project. When it authorized cultural fieldwork to proceed on lands under its control, the BLM stipulated that project archaeologists are ultimately required to prepare site records for

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				all cultural resources identified in the APE for the Project as a whole, not merely the APE for the Preferred Alternative.
F-34	Cultural Resources	San Manuel Band of Mission Indians	There is no information presented on potential Traditional Cultural Properties, Traditional Cultural Landscapes, religious or ceremonial sites. Site record forms for identified historic properties in the Project have not been completed and a historic properties inventory Report or Determination of eligibility has not been completed.	As detailed in Draft EIS Section 3.7.2.1, a preliminary step in the cultural resources investigation for the project involved a search for sacred lands with the California Native American Heritage Commission (NAHC), which maintains a database of this information. The NAHC advised that there were no records of any Native American sacred sites within or adjacent to the APE. The NAHC also provided a list of Native American Tribal representatives it recommended be consulted for more information regarding the possibility of such traditional use areas. In March 2007, the FRA commenced consultation efforts with these identified Tribes via letter, specifically requesting any information regarding the possibility of traditional use or sacred sites in or near the Project area. As documented in Draft EIS Section 3.7.2.1, the FRA continued outreach to identified Tribes via telephone and in some cases, through face-to-face meetings in 2008. During 2009 and 2010 (and ongoing into 2011) the FRA conducted extensive formal and informal consultation with several interested Tribes as documented in Final EIS Section 4.1.1. On multiple occasions, including during field site visits with the Tribes, the FRA and/or its third party contractors asked Tribes for input on any resources of important, including traditional use areas. These consultations contributed to the consideration of additional avoidance alternatives as well as the terms of the Programmatic Agreement, including the outlines for the Historic Properties Treatment Plan and the NAGPRA Plan of Action. However, none of the above efforts led to the identification of any formally recognized traditional cultural properties. According to the BLM, whose local field office archaeologists have advised FRA closely throughout all phases of the cultural resources evaluation for the Project, a site must meet several preconditions in order to meet the federal definition of “traditional cultural property” as articulated in National Register Bulletin 38. These conditions include the ongoing use of the site in spiritual practice or other traditional activities. The BLM is unaware that any of the cultural resources investigated within or adjacent to the APE for the Project meet the qualifications to be recognized as traditional cultural properties.
F-35	Cultural Resources	San Manuel Band of Mission Indians	The pedestrian surveys and site records do not identify subsurface resources, which is an important component to inadvertent discoveries that are not always visible.	The PA for the Project recognizes that subsurface resources may be identified and accordingly, provides extensive requirements regarding such an event. Foremost in these requirements is the stipulation that Native American monitors designated by the Consulting Tribes are to be present during all ground-disturbing activities. In addition, the PA requires training of all construction personnel in the appropriate actions to take if possible cultural resources are identified during construction activities.
F-36	Cultural Resources	San Manuel Band of Mission Indians	NEPA 's implementing regulations provide: "if the incomplete information relevant to reasonably foreseeable significant adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement." 40 C.F.R. ISO 1.1. There is currently insufficient information in the FEIS for the Tribe to determine the extent of impacts and meaningfully consult on mitigation measures.	As detailed above in the response to comment F-34, the FRA developed extensive information upon which to complete the environmental review for the Project. The PA for the Project defines a phased approach that permits all formal eligibility determinations to be made after the Preferred Alternative is identified and ratified by the Lead and Cooperating Agencies via Records of Decision on the proposed action. Eligibility determinations will be made by the appropriate agency (in this region, either the BLM or a SHPO), based on information presented in completed state-appropriate site records forms. This approach is consistent with 36 CFR 800.4(b)(2). The terms of the PA also

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				require preparation of a Historic Properties Treatment Plan (HPTP) and a NAGPRA Plan of Action based on findings from the evaluation and assessment process.
F-37	Cultural Resources	San Manuel Band of Mission Indians	The Tribe advised the lead agency of the necessity to consult with traditional practitioners and elders that have knowledge of cultural places, landscapes, including trails, traditional gathering and ceremonial sites that may be impacted and necessity to withhold sensitive information from public disclosure. The full extent of existing cultural resources is not yet known; as this information has not yet been fully developed. The full extent of project effects and impact on the cultural environment cannot be determined at this time.	Regarding traditional use properties, please see the response to comment F-34 above. Through the evaluation and consultation efforts to date, the FRA has not identified any traditional cultural properties. In addition, the BLM is unaware of the presence of any such properties in the APE for the Project. Notwithstanding, the terms of the PA allow for and foster ongoing consultation and communication between the FRA, the Tribes, and the Project Applicant. While the FRA disagrees with the assertion that there is insufficient information on cultural resources to complete the NEPA process for the Project, the FRA will continue to exercise its obligations to engage in government-to-government consultation and hopes the Tribes also coordination with the Applicant who will be largely responsible for design as the Project moves forward. FRA staff travelled to meet with tribal representatives for face-to-face consultation in June 2011, between the publication of the FEIS and the publication of this ROD. In these meetings, Tribal representatives were able to discuss their concerns with FRA and meet with the Project Applicant.
F-38	Cultural Resources	29 Palms	The route of the DesertXpress contains 77 prehistoric sites and 17 that contain a mixed assemblage of prehistoric and historic sites. In addition to these archaeological sites, the project preferred alternative and other alternatives, have, yet to be fully determined, significant adverse impacts to Traditional Cultural Properties of significance to Native Americans. These include but are not necessarily limited to the area of the Halloran rock landscape, nearby pre-historic quarries, Mojave River habitation landscape, Cronise Lake habitation sites, Mojave trail, Chemehuevi Salt Song trial, Serrano traditional trials, Mohave Song Story Trails and other pre-historic trails.	Please see the responses to comments F-34 and F-36.
F-39	Cumulative Impacts	San Manuel Band of Mission Indians	There are cumulatively significant cultural and biological impacts that have not been fully assessed. The FEIS fails to adequately consider the cumulative effect on cultural resources and animal and plant habitat of the desert. There are cumulatively significant biological impacts to animals in the project area that have important values to Native Americans. For example cumulative impacts to big horn sheep and desert tortoise, animals considered a cultural resource by Native Americans. Habitat will be further fragmented and loss of connectivity will threaten the tortoise, the big horn sheep and other species. Of particular concern are the cumulative effects of renewable energy projects within the geographic scope of the Ivanpah valley which contains of desert tortoise and big horn sheep habitat. The FEIS fails to provide an adequate analysis of how these related projects, in conjunction with the proposed action, are thought to have impacted or are expected to impact the environment and how this will be mitigated to an acceptable level. The acreages and the intent of the identified related projects are given, but actual cumulative impacts of these projects are not analyzed with specificity. While mitigation would reduce impacts to these biological resources, the Preferred Alternative when viewed collectively with Native American interest in habitat maintenance, will have an unacceptable adverse effect on biological and thus cultural resources.	Cumulative impacts to cultural resources were fully assessed in the Final EIS (see page 3.16-28, Section 3.16.3.10). The Final EIS also fully assessed cumulative impacts to biological resources (Final EIS page 3.16-39, Section 3.16.3.17). As detailed in Final EIS Section 3.16.3.17, in certain locations, particularly where the proposed rail alignment would deviate substantially from the developed I-15 freeway corridor in the Mountain Pass area, the combined effect of the Project and other projects in the vicinity would result in cumulative impacts under NEPA to desert tortoise and desert tortoise habitat, as well as to other sensitive species in this area, which include big horned sheep. In addition, several mitigation measures are intended to protect multiple species during project construction and operation through protective fencing, construction worker training, ongoing construction period monitoring, and several other means – see Mitigation Measures BIO-1, the remainder of BIO-2, BIO-3, and BIO-5. Final EIS Section 3.14.3 identifies the extensive mitigation measures to avoid or lessen impacts to all biological resources evaluated.
F-40	Environmental Justice	EPA	The FEIS also states that residents adjacent to the Preferred Alternative are already exposed to substantial transportation infrastructure and associated environmental impacts, and therefore the project would not introduce substantial new effects to the environmental justice communities.	Please see the response to comment F-2.

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			Additional impacts to already burdened communities is likely to be significant and must be considered and mitigated. For example, the FEIS states that residents in the vicinity of the proposed Las Vegas Central Station B are within 300 feet of the proposed station location, are already exposed to noise and air quality impacts from the I-15 freeway, and could be exposed to air quality, traffic, and noise impacts associated with the proposed station. Commitments to mitigate these impacts should be included in the ROD.	
F-41	General	NV Dept of Wildlife	Again, of the Project action alternatives described, the Department is supportive of the Preferred Alternative.	The comment is noted.
F-42	Growth	City of Barstow	The FEIS concludes that the economic impacts identified in the Husing Report will not result in a significant impact under NEPA. The FEIS bases this determination on the statement that the adverse economic impacts identified in the Husing Report "are not at a level that would result in secondary physical environmental effects." (FEIS, p.3.2-14.) As noted above, NEPA requires an EIS to analyze whether adverse economic impacts will result in significant physical changes to the environment (often identified as "urban decay"). (City of Rochester v. United States Postal Service, supra. 541 F.2d 967.) However, the FEIS provides absolutely no reasoned explanation for its conclusion that the adverse economic impacts identified in the Husing Report will not result in secondary physical effects. The Husing report simply fails to evaluate the effect of a semi-permanent economic downturn on the urban fabric of Barstow. Because of this shortcoming in the Husing Report, the FEIS lacks any factual or analytical basis upon which to rest its conclusion that the DesertXpress will not produce significant urban decay in Barstow.	Please see Appendix B of this Record of Decision for a detailed review of several assertions raised by the City of Barstow regarding the potential economic impact of the DesertXpress. In its initial economic study (Final EIS Appendix F-E), FRA's economist considered the possibility of urban decay but concluded that while there would be some negative economic impact, such impacts would not result in urban decay. For further information regarding FRA's finding that the Project will not result in urban decay, please refer to In Appendix B.
F-43	Growth	City of Barstow	No other projects are discussed with regard to negative growth impacts and the overall conclusion focuses solely on the temporary beneficial construction impacts to reach a false conclusion that Barstow will only experience growth benefits from the preferred alternative. The report by Dr. Barbieri, attached to this letter, explains that numerous other developments may contribute, along with the DesertXpress Project, to cumulative growth impacts on the City of Barstow. The FEIS fails to discuss any of those other projects, and therefore its treatment of cumulative growth impacts is entirely inadequate under NEPA.	The cited report by Ronald Barbieri includes discussion of several projects contemplated for the City of Barstow that could have positive growth impacts – including a potential casino and a potential Walmart distribution center. These projects are cited to have the potential to increase jobs and economic activity generally within greater Barstow. As part of the cumulative impact analysis, including cumulative growth impacts, FRA considered reasonably foreseeable projects. See FEIS Section 3.16.
F-44	Growth	EPA	While the area surrounding the preferred station site in Victorville may be planned for growth, the DesertXpress project would undoubtedly impact the timing and potentially the form of that growth. In addition, since the chosen station site (VV3) is the site alternative that is located further from existing development than either of the other station site alternatives, growth-related impacts would likely be greater than with the other station sites. Mitigation measures, such as commitments to work with local land use planning authorities to implement land use controls in the station area and surrounding areas, should be included in the ROD. The ROD should also include references to the transit-oriented principles that FRA has developed as part of the California High Speed Train system.	The Applicant selected possible station site locations in Victorville in consultation with officials of that City. In comments on the Supplemental Draft EIS, which included analysis of the VV3 (A&B) station sites, officials of the City of Victorville endorsed the project. In Final EIS Chapter 3.2 (Growth), Table F-3.2-4 notes that all of the Victorville Station sites would have the beneficial effect of catalyzing transit-oriented development growth around the station areas. The City of Victorville believes the project could foster planned growth in the station and OMSF area. While the Applicant has committed to a voluntary mitigation measure to encourage transit-oriented development, the FRA does not find the California High-Speed Rail Authority's Urban Design Guidelines referenced by the EPA directly applicable to this privately-sponsored project with its distinct purpose and need.
F-45	Hazardous Materials	DTSC	The EIS should evaluate whether conditions within the Project area may pose a threat to human health or the environment. Following are the databases of some of the regulatory agencies:	The analysis included a thorough review of the federal, state, and local databases identified in this comment. Please see Sections 3.10.1 and 3.10.2 of the Draft EIS.

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			- National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S. EPA). - Envirostor (formerly CaiSites): A Database primarily used by the California Department of Toxic Substances Control, accessible through DTSC's website (see below). - Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA. - Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S. EPA. - Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations. - GeoTracker: A List that is maintained by Regional Water Quality Control Boards. - Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks. - The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).	
F-46	Hazardous Materials	DTSC	The EA should identify the mechanism to initiate any required investigation and/or remediation for any site within the proposed Project area that may be contaminated, and the government agency to provide appropriate regulatory oversight. If necessary, DTSC would require an oversight agreement in order to review such documents.	Final EIS Mitigation Measure HAZ-2 requires the Applicant to prepare a soil-monitoring plan prior to the issuance of building permits for demolition, grading, or construction. If the monitoring procedures indicate the possible presence of contaminated soil, a contaminated soil contingency plan shall be implemented that shall include procedures for segregation, sampling, and chemical analysis of soil. Where contaminated groundwater is encountered, the Applicant shall obtain a NPDES permit prior to the issuance of a permit to construct. The NPDES permit shall specify site-specific testing and monitoring requirements and discharge limitations.
F-47	Hazardous Materials	DTSC	Any environmental investigations, sampling and/or remediation for a site should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of any investigations, including any Phase I or II Environmental Site Assessment Investigations should be summarized in the document. All sampling results in which hazardous substances were found above regulatory standards should be clearly summarized in a table. All closure, certification or remediation approval reports by regulatory agencies should be included in the EIS.....If the site was used for agricultural, livestock or related activities, on site soils and groundwater might contain pesticides, agricultural chemical, organic waste or other related residue. Proper investigation, and remedial actions, if necessary, should be conducted under the oversight of and approved by a government agency at the site prior to construction of the project.	Phase I Environmental Site Assessments were completed for all lands underlying all project alternatives contemplated within the Draft and Supplemental Draft EIS documents. These assessments are presented as Final EIS Appendix F-K.1; information from them was summarized in all of the NEPA documents for the Project.
F-48	Hazardous Materials	DTSC	If buildings, other structures, asphalt or concrete-paved surface areas are being planned to be demolished, an investigation should also be conducted for the presence of other hazardous chemicals, mercury, and asbestos containing materials (ACMs). If other hazardous chemicals, lead-based paints (LPB) or products, mercury or ACMs are identified, proper precautions should be taken during demolition activities. Additionally, the contaminants should be remediated in compliance with California environmental regulations and policies.	Final EIS Mitigation Measure HAZ-1 requires the Applicant to conduct an evaluation of all buildings to be demolished to determine the presence of asbestos containing materials and lead based paint, prior to the start of construction activities. Remediation shall be implemented in accordance with the recommendations of these evaluations.
F-49	Hazardous Materials	DTSC	Future project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Land Disposal Restrictions (LDRs) may be applicable to such soils. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure	Please see responses to comments F-45 through F-48. Final EIS Mitigation Measure HAZ-2 requires the Applicant to prepare a soil-monitoring plan prior to the issuance of building permits for demolition, grading, or construction. This includes construction activities related to the import of any off-site soils.

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			that the imported soil is free of contamination.	
F-50	Hazardous Materials	DTSC	Human health and the environment of sensitive receptors should be protected during any construction or demolition activities. If necessary, a health risk assessment overseen and approved by the appropriate government agency should be conducted by a qualified health risk assessor to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.	Mitigation included in the Final EIS addresses these concerns. Please see Final EIS Mitigation Measures HAZ-1 through HAZ-4.
F-51	Hazardous Materials	DTSC	If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If it is determined that hazardous wastes will be generated, the facility should also obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. Certain hazardous waste treatment processes or hazardous materials, handling, storage or uses may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUP A.	Final EIS Mitigation Measure HAZ-5 requires the Applicant to prepare a Hazardous Materials Management Plan for all facilities that use, store, or dispose of hazardous materials. Facilities emitting toxic air emissions shall submit inventories and plans to the appropriate air quality management district and be subject to permitting and monitoring regulations of the district. The Applicant shall obtain all applicable local, state and Federal permits for the installation and operation of any above or below ground chemical or fuel storage tanks prior to installing such tanks.
F-52	Hydrology	EPA	EPA strongly encourages FRA to include avoidance, minimization, and mitigation measures, which will be required in order to receive a CWA Section 404 permit, in the ROD. EPA understands that the USACE will be issuing Nationwide Permits for the project. If this is the case, an alternatives analysis and demonstration that the preferred alternative is the least environmentally damaging practicable alternative (LEDPA), as discussed in our DEIS comments, is not required. However, avoidance and minimization measures are required, and these should be included as commitments in the ROD. While the Project applicant will be obtaining the CWA Section 404 permit, FRA should include mitigation commitments in the ROD.	The FRA will include all mitigation noted in the Final EIS as commitments. Please see Section 8.0 of this Record of Decision. The process to obtain the CWA Section 404 permit has been ongoing. In July 2010, the Applicant submitted jurisdictional delineation reports to the USACE; a field verification visit was conducted in December 2010. In May 2011, the Applicant submitted its applications for Section 401 and 404 permits to the USACE and the applicable regional water quality control boards.
F-53	Hydrology	EPA	As stated in our DEIS comments, we strongly encourage FRA to commit to the use of natural washes, in their present location and natural form, to the maximum extent practicable with the placement of adequate natural buffers for flood control. We also encourage FRA to improve obstructed natural flows where practicable during project construction.	For most of the Project alignment the rail line will follow the I-15 freeway corridor. When immediately adjacent to the freeway, the project would mimic and extend the existing drainage facilities that exist under the I-15 freeway. This approach would minimize impacts to drainages and not obstruct surface water flows. In areas where the rail line would deviate substantially from the I-15 freeway (primarily Segment 4C near Ivanpah), the Project would include bridge and culverts appropriately sized to minimize impacts to natural drainage flows. The USFWS in its Biological Opinion included measures specifically intended to reduce potential hydrological impacts of Segment 4C on downstream habitats.
F-54	Hydrology	EPA	The FEIS also states that VV3 requires a larger footprint than the other two station options because VV3 emphasizes surface parking areas instead of structured parking. EPA is concerned about the impact of this facility on hydrology, water quality, and other resources. FRA's decision to construct surface parking instead of structured parking will result in higher storm water runoff and potential impacts to water quality than either of the other station options. EPA strongly encourages FRA to reconsider a smaller footprint, elevated parking structure and to commit to reduced impacts and aggressive best management practices (BMPs) to control and treat stormwater during construction and operation of the facility, and monitoring to ensure effectiveness of the BMPs. Commitment to less impacting design and BMPs should be included in the ROD.	Final EIS Section 3.8.4 acknowledges that the Preferred Alternative would result in both construction and operational period effects to water resources, including those cited by the commenter. The FRA weighed the tradeoffs between the different station alternatives, recognizing that certain station options had impacts that others did not. Section 4.0 of this Record of Decision reiterates the basis for this decision-making. In addition to all mitigation measures included within this Record of Decision (Appendix A), construction and operation of the project will be further subject to all conditions of permits under Section 401 and 404 of the Clean Water Act. Such conditions would be required to be incorporated into design-build plans for the project. Please see the response to comment F-52 regarding the status of these permit applications.
F-55	Land Use	Dean Martin	The "Preferred Alternative" route would jeopardize the rural lifestyle of the adjoining homes and	The I-15 freeway is a long-established transportation corridor. The Project proposes

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		Rural Neighborhood Preserve Association	connecting preservation area. The high-speed train will diminish the viability of the area for future home development.	adding a high-speed passenger rail line within this existing transportation corridor in the metropolitan Las Vegas area (the commenter's apparent area of concern). The presence of the freeway, among other factors, has established and determined development patterns in the metropolitan Las Vegas area and elsewhere. The Nevada Department of Transportation plans to expand the width of the freeway to up to 14 lanes in some portions of metropolitan Las Vegas. The addition of high-speed passenger rail service into this corridor would not fundamentally change the transportation purpose of the corridor and would thus not introduce a new type of land use compatibility concern.
F-56	Land Use	Dean Martin Rural Neighborhood Preserve Association	The FEIS general assumption on industrial land use does not consider actual Clark County land uses. The maintenance facility at [Wigwam] does not conform to current Clark County land uses. The facility is a heavy industrial use, which is not permitted in its current proposed location and will have a severe impact on the surrounding area. Currently, the only area in Enterprise with the appropriate zoning is the Arden industrial area adjacent to the Union Pacific right of way.	The comment is noted, but the FRA does not agree that the proposed Wigwam Avenue facility is a heavy industrial use. Notwithstanding, please refer to Final EIS Section 1.4.1.2, which describes the how the June 2007 declaratory order of the Surface Transportation Board exempts the Project from state and local environmental review, state and local land use laws, and state and local permitting requirements.
F-57	Land Use	Marks	Some areas of the selected route in Clark County NV are listed as Industrial when in fact they are Business Development, Professional and Research.	The general comment is noted but the commenter does not provide specifics. Notably, the actual route of the Preferred Alternative rail alignment within Clark County lies entirely within the I-15 freeway right-of-way or the Dean Martin Drive right-of-way.
F-58	Land Use	City of Barstow	The Land Use Chapter (3.1) contains statements and conclusions that the proposed Project has low and moderate compatibility with certain land uses along the route such as residential areas and sensitive BLM lands with a very cursory statement regarding the basis for the incompatibility. There are also no conclusions regarding the land use impacts after mitigation despite the response to comment No. S-238 indicating that conclusions regarding land use impacts after mitigation are presented in FEIS Section 3.1.4. Section 3.1.4 simply states that incorporation of the mitigation measures will mitigate permanent effects relating to Project construction and operation and that the Preferred Alternative will result in the conversion of lands to transportation uses. (FEIS, p. 3.1-43.) Neither of these statements provides any conclusion regarding the significance of impacts from the Project as required by NEPA.	Please see Final EIS Section 3.1.3, which indicates which types of land use effects would occur with the Preferred Alternative, including identification of appropriate mitigation for significant adverse effects.
F-59	Land Use	City of Barstow	The FRA's response to comments by the City of Barstow and adjacent areas that the information on land use policies in the draft documents was grossly out of date indicates that this information was updated in the FEIS. (Response to Comment No. 334.) However, a review of the FEIS shows only very minor revisions were made to Section 3.1.1.1 and no citations to recent data were added to show that the information is actually current. Despite this fact, the FEIS changes a few terms, but otherwise does not appear to have addressed this issue, calling into question the adequacy of the land use analysis in the FEIS pertaining to the City and surrounding areas.	Final EIS Section 3.1.1.1 reflects extensive revisions regarding land use policies of the City of Barstow relative to Segment 2A/2B. These revisions are noted on Final EIS page 3.1-2. Revised figures to reflect these updates were also provided in the Final EIS; see Figures F-3.1-1 and F-3.1-2. These revisions fully address the scope of issues identified in Draft EIS comment 334. As described in Final EIS Section 2.4.1, Segment 2A/2B was not included in the Preferred Alternative.
F-60	Land Use	CCDOA	In its comments on the DEIS, CCDOA pointed out that the preferred alignment for Segment 5 penetrated both the southern and northern runway protection zones (RPZs) for the western-most runway at the SNSA. The revised alignment subsequently described in the SDEIS appears to avoid any intrusions into the southern RPZ by remaining on the west side of I-15 at that point. However, because the proposed alignment of the DesertXpress subsequently crosses back to the east side of I-15, it still intrudes into the northern RPZ for the western-most runway at the SNSA. CCDOA noted this in its comments on the SDEIS and renewed its objection to any proposal that would result in any part of the DesertXpress infrastructure being located in an RPZ. This conflict was not resolved in the FEIS. The preferred alignment for Segment 5 in the FEIS still intrudes into the northern RPZ. In response to CCDOA's comments on the SDEIS concerning this	Please see Appendix A to this Record of Decision in which Mitigation Measure LU-2 has been revised to reflect revisions proposed to the FRA by the Federal Aviation Administration.

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			intrusion, FRA added Mitigation Measure LU-2: Rail Alignment Design in Existing and Planned Runway Protection Zones. This mitigation measure requires the Applicant to "coordinate with the FAA during the design-build process regarding any existing and planned airport uses and established Runway Protection Zones." It also requires the Applicant obtain a determination from the FAA that "the project does not present a hazard to air navigation" under Part 77. See FEIS at 3.1-42 and 4-103 (response to CommentS-126).	
F-61	Land Use	CCDOA	CCDOA renews its objection to the proposed alignment of Segment 5. Intrusion of physical objects into the RPZ is a critical safety issue. Accordingly, we cannot agree that proposed mitigation measure LU-2 provides adequate safeguards for the northern RPZ at the SNSA. As we have noted before, given the configuration of the western SNSA runway and the NDOT right-of-way for I-15, avoidance of the RPZ is best achieved by using an alignment that remains on the west side of I-15 until it has passed the northern RPZ. We have consulted with Mr. David Kessler, the Federal Aviation Administration (FAA) Project Manager for the SNSA Environmental Impact Statement, and he agrees that the preferred alignment for Segment 5 unacceptably interferes with FAA's safety requirements for RPZs, and that an alignment that stays on the west side of the I-15 right-of-way would adequately protect the RPZ.	Please see Appendix A to this Record of Decision in which Mitigation Measure LU-2 has been revised to reflect revisions proposed to the FRA by the Federal Aviation Administration.
F-62	Land Use	CCDOA	As we explained in our October 2010 comments on the SDEIS, the project's impacts on aviation safety cannot adequately be examined without considering the results of FAA's Part 77 analysis and any mitigation measures such as lighting and marking required by FAA in any subsequent determinations. There is no discussion of the Part 77 determinations in the FEIS; only a requirement that the Applicant obtain a Part 77 determination that "the project" does not present a hazard to air navigation. Thus, FRA's FEIS still lacks a full examination of the potential aviation hazards for each alternative. FRA's response to CCDOA's comment does not address the lack of analysis in the FEIS. It merely cites Mitigation Measure LU-1, which addresses only impacts to one-engine inoperative (OEI) surfaces; and Mitigation Measure LU-2, which requires the Applicant to obtain Part 77 determinations from the FAA. See Comment S-122 and Response at FEIS p. 4-102.	Please see Appendix A to this Record of Decision in which Mitigation Measure LU-2 has been revised to reflect revisions proposed to the FRA by the Federal Aviation Administration.
F-63	Land Use - Aviation	FAA	FAA recommends the FRA's Final EIS and Record of Decision include a reference to 49 U.S.C. 47101 that states in part: <i>" ... it is the policy of the United States that the safe operation of the airport and airway system is the highest aviation priority ... "</i>	The comment is noted.
F-64	Land Use - Aviation	FAA	The FAA recommends DesertXpress reduce the height of the proposed rail line, including the overhead catenary, below the 62.5:1 OIS for departure ends Runways of 25L and 25R at LAS. FAA strongly recommends FRA consider an alternative that has the proposed rail line pass under the Union Pacific Rail Road similar to how Interstate 15 passes under the railroad. The FAA encourages the FRA to work with DesertXpress to adjust the alignment of the proposed rail project to ensure it does not adversely affect the safe and efficient use of navigable airspace at LAS. Until the FAA has completed a detailed review of the proposal, under 14 CFR Part 77, the FEIS is premature in making a statement that a no-hazard determination is available.	Please see Appendix A to this Record of Decision in which Mitigation Measure LU-1 has been revised to reflect revisions proposed to the FRA by the Federal Aviation Administration.
F-65	Land Use – Aviation	FAA	The proposed alignment of the DesertXpress along the eastern edge of the Interstate 15 Right-of-Way causes the train to penetrate the RPZ for Runway 18R/36L at the proposed SNSA. This penetration of the RPZ is not acceptable to the FAA because it is a land use that is inconsistent with Paragraph 212 of FAA Advisory Circular 150/5300-13, <i>Airport Design</i> . FAA views a passenger train in an RPZ as a prohibited land use. The function of the RPZ is to protect people and property on the ground. We believe the FRA would agree the safety of both aircraft and rail passengers is of the utmost importance.	Please see Appendix A to this Record of Decision in which Mitigation Measure LU-2 has been revised to reflect revisions proposed to the FRA by the Federal Aviation Administration.

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			The RPZ for the proposed SNSA extends over a portion of the Interstate 15 highway pavement. However, we cannot accept introduction of a new land use that could pose a hazard to air navigation. An at-grade railroad with overhead power lines would be inconsistent with the FAA's Airport Design Standards. Mitigation Measure LU-2, shown on page 3.1-42 of the Final EIS is not acceptable to the FAA because it does not relocate the proposed rail alignment outside of the RPZ.	
F-66	Land Use – Aviation	Dean Martin Rural Neighborhood Preserve Association	Any above grade track section that impairs runway capacity ability at McCarran International Airport must have a design solution before the project is approved. Reduced runway capacity will influence air carriers' decisions on the service levels to McCarran. Runway impairment can result in serious economic impact to the entire Las Vegas valley.	Please see Appendix A to this Record of Decision in which Mitigation Measure LU-1 has been revised to reflect revisions proposed to the FRA by the Federal Aviation Administration.
F-67	Land Use – Aviation	Marks	Although discussed in the EIS, it would appear that there is a conflict between aircraft safety in an emergency single engine take-off. It is our understanding that a part of the selected alternative would require elevated tracks that are in or adjacent to active runways. This is one of many reasons that building height is restricted in the aircraft zones that the selected alternative will traverse. Under these circumstances Airlines will have to limit passenger, fuel and baggage on departing aircraft to comply with the engine failure rules. The net effect will be a decline in airline traffic at the Las Vegas airport.	Please see Appendix A to this Record of Decision in which Mitigation Measure LU-1 has been revised to reflect revisions proposed to the FRA by the Federal Aviation Administration.
F-68	Land Use - Aviation	FAA	We believe the FEIS fails to consider the 62.5: 1 Obstacle Identification Surface (OIS) by the proposed rail alignment as it relates to Runways 25L and 25R at LAS. This rule requires commercial operators of large or turbine-powered airplanes departing an airport under IFR to have a procedure for avoiding obstacles in the event of an engine failure on takeoff.	Please see Appendix A to this Record of Decision in which Mitigation Measure LU-1 has been revised to reflect revisions proposed to the FRA by the Federal Aviation Administration.
F-69	Miscellaneous	Marks	No mention was made of the illegal immigration problem and the ability of ICE to carry out its mission. The intended rail system provides a significant opportunity for illegal immigrants to move East and North in the U.S. This exacerbates the problem of control. Even if you could add ICE personnel the cost would be prohibitive. Security at points of ingress and egress will be required to ensure that no possible terrorist activity can take place. If each train carries 250-300 passengers' means at maximum use there would be 600 potential terrorists Victims at both the Victorville and Las Vegas terminals. Security, such as that used at airports, would require an area large enough to screen people, baggage and equipment prior to departure.	The FRA is uncertain how the proposed high-speed passenger rail system would in any way interfere with the respective missions of the U.S. Immigration and Customs Enforcement (ICE) or the U.S. Department of Homeland Security. The proposed project corridor would be constructed and operated largely within an existing, operational freeway; points of access would be only in Victorville and Las Vegas. Victorville is approximately 150 miles (or more, depending on the route) from the closest U.S. border with another country. With regard to security, the Transportation Security Administration (TSA) has jurisdiction over rail safety, air travel, and other modes of transportation. The TSA has a legal mandate to screen all commercial airline passengers but there is currently no such mandate applicable for rail transit, although the TSA implements numerous other programs intended to address risks to rail transportation, both passenger and freight. In the event that regulations are established in the future requiring airport-style screening of railroad passengers, the Applicant will be required to comply with all pertinent regulations. Should compliance with future regulations require building modifications, any physical environmental impacts associated with such modifications would be examined at that time. Such impacts would be purely speculative at this time.
F-70	Miscellaneous	CCDOA	As you know, CCDOA is contractually and statutorily obligated to ensure that land uses in and around its aviation facilities will not impair the use and operation of such facilities. Accordingly, while CCDOA neither supports nor opposes DesertXpress, CCDOA is committed to ensuring that any	Please see Appendix A to this Record of Decision in which Mitigation Measure LU-2 has been revised to reflect revisions proposed to the FRA by the Federal Aviation Administration.

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			new infrastructure in southern Clark County is compatible with the siting, construction, and operation of the proposed Southern Nevada Supplemental Airport (SNSA). CCDOA is also committed to ensuring that new infrastructure in the Las Vegas Valley does not interfere with operations at McCarran International Airport (LAS) or any of its other facilities.	
F-71	Miscellaneous	CCDOA	We recommend that FRA delay issuance of a Record of Decision until it is able to examine the impacts of mitigation measures required by FAA for aviation safety purposes.	In consultation with the Federal Aviation Administration, the FRA has revised Mitigation Measures LU-1 and LU-2. Please see these updated measures within Appendix A of this Record of Decision.
F-72	Miscellaneous	SCH	The State Clearinghouse submitted the above named Final Environmental Statement to selected state agencies for review. The review period closed on May 2, 2011, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.	The Project's compliance with State Clearinghouse review requirements is noted.
F-73	Miscellaneous	James Brown	I am opposed to the train paralleling 1-15 from Downtown Las Vegas to Victorville. I live two blocks from 1-15 near Silverado Ranch Road. I live on an acre and have for over twenty two years. I have invested over 1 million dollars on my 5000 square foot home, free standing 1000 square foot home theater, five car garage and 600 square foot work shop. A high-speed train so nearby will adversely affect my quality of life as well as my physical and emotion well being and substantially decreased the value of my property. I suggest the train run parallel to the existing train at least until it gets to Sloan or Jean. It can easily connect to the 1-15 corridor to Victorville. The people who live near that train chose to live where they are. None of the rest of the population near 1-15 chose to live near a train.	The commenter appears to indicate a preference for Segment 6C, in which the rail alignment would be constructed alongside the existing Union Pacific Railroad (UPRR) right-of-way. The UPRR owns this right-of-way. Please see Final EIS Chapter 4 (Comments and Coordination), Table F-4-1, comment numbers 275 and 276, in which the Union Pacific Railroad expressed opposition to the possible shared use of their right-of-way and trackways between Daggett, California and Las Vegas, Nevada. As the UPRR was unwilling to entertain shared use of their right-of-way and the FRA does not have the authority to compel the privately-held railroad to allow a shared use of this right-of-way, Segment 6C was found to be infeasible and thus was not included in the Preferred Alternative. The I-15 freeway is a long-established transportation corridor. The Project proposes adding a high-speed passenger rail line within this existing corridor including in the metropolitan Las Vegas area. The presence of the freeway has established and determined development patterns in the metropolitan Las Vegas area and elsewhere. The Nevada Department of Transportation plans to expand the width of the freeway to up to 14 lanes in some portions of metropolitan Las Vegas. The addition of high-speed passenger rail service into this corridor would not fundamentally change the transportation purpose of the corridor and would thus not introduce a new type of land use compatibility concern. Please also note that the Record of Decision includes requirements for the inclusion of noise mitigation measures: Please see Section 8.0 of this Record of Decision as well as Figure F-3.12-3 of the Final EIS, which shows the location where physical noise mitigation systems and materials would be utilized to reduce noise levels below a level of significance.
F-74	Noise	Dean Martin Rural Neighborhood Preserve Association	• The FEIS does not provide the estimated sound levels for different operating speeds. • The sound barrier of 4 feet will not contain the sound for residents adjacent to the tracks. • How will sound be mitigated where the rail is elevated?	The Final EIS examined the anticipated speed of the Preferred Alternative at different locations. The Plan and Profile Drawings of the Preferred Alternative (Appendix F-C in the Final EIS) note the anticipated speeds at various points along the proposed rail alignment. The Final EIS examined speeds associated with the EMU (preferred technology alternative), which have higher top and average speeds than the DEMU technology analyzed in the Draft and Supplemental Draft EIS documents. Please also see Final EIS

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				Executive Summary Figure E, which shows typical train speeds in several types of locations along the rail alignment. Please see the response to comment F-75 regarding identified noise impacts and mitigation measures.
F-75	Noise	Marks	The selected alternative is adjacent to existing residential areas. The noise and vibration will be excessive thereby reducing the quality of life as well as the value of these residential properties.	The FRA examined noise and vibration impacts – please see section 3.12 of the Final EIS. Final EIS Section 3.12.2.3 identifies certain areas where noise associated with the proposed rail system would result in noise impacts. These impacts are fully mitigated by the measures set forth in Final EIS Section 3.12.3; these measures are also incorporated in this Record of Decision; please see Section 8.0. These measures include the installation of solid physical noise barriers at least 4 feet in height. Mitigation Measure NV-1 notes that noise barriers on elevated rail alignments are particularly effective in reducing noise levels owing to the additional buffering provided by the height of the elevated structure relative to people closer to ground level. With regard to vibration, Final EIS Section 3.12.2.3 concluded based on analysis that the Preferred Alternative would not result in any vibration effects at any point along the proposed corridor.
F-76	Purpose & Need	Gary & Carol Haley	I have lived and worked in California for most of my 70 plus years and we prefer our automobiles for trips to Las Vegas! It will not be used and become another tax supported burden to the working public like all the others in this state. The money should be spent to fix and repair our deteriorating highway system not just on 115 but throughout our country. Harry Reid knows this and should act accordingly! As I recall, you used to be able to catch a Union Pacific Train in Victorville and Barstow which took you to and from the Union Plaza Hotel and Casino in Las Vegas. This stopped years ago due to the lack of interest and customers.	The comments are noted and do not refer to any specific environmental effect identified in any of the NEPA documents for the DesertXpress project.
F-77	Purpose and Need	City of Barstow	The FEIS now indicates that the DesertXpress may, following completion of NEPA review, apply for federal funding under the Rehabilitation and Improvement Financing (RRIF) Program. (FEIS, p. 1-15.) This information -which was not disclosed to the public until after circulation of the DEIS and SDEIS - means that the DesertXpress Project may no longer meet the purpose and need identified in the EIS.	While the private Project Applicant may intend to apply for a loan from the federal government to finance construction of the proposed passenger rail system., the possibility of a loan to the private Project Applicant does not alter the fundamentally private nature of the proposal and therefore, no change to the discussion of the Purpose and Need for the proposed action is warranted.
F-78	Purpose and Need	City of Barstow	Finally, the FEIS confuses the definition of the proposed Project by speculating, without analysis, that the DesertXpress could be extended to the Ontario International Airport, the San Bernardino station, or "other communities" in the Los Angeles Basin." (FEIS, p. 1-8.) The FEIS does not explain how these connections could possibly be achieved while maintaining the high-speed rail definition of the Project. These tantalizing prospects appear to be illusions, used in the FEIS (as the promise of "private financing" has been used in the past) to make the DesertXpress appear to be a more appealing project than it really is.	The cited potential extensions were mentioned to provide context that the proposed rail line would have the ability to be extended; discussions of such extensions have commenced, particularly with regard to the neighboring High Desert Corridor project. However, none of these potential extensions are part of the project nor were any of the EIS analyses based on the assumption of any such potential extension. The project has demonstrated utility independent of any possible future connection that has been envisioned.
F-79	Purpose and Need	EPA	While we commend the FRA for seeking to provide a public transportation option in the Southern California and Southern Nevada area, we continue to have concerns raised in the DEIS and SDEIS about the siting of the project southern terminus in Victorville, rather than a terminus in a larger population center with other transit connections. We continue to recommend consideration of an option of connecting the high speed train service to the greater Los Angeles area, thereby reducing the number and length of individual automobile trips required to get to Victorville.	The proposed Victorville Station site is in reasonable proximity to the planned High Desert Corridor project, which is being considered to provide a safer, faster connection between Victorville and Palmdale. Planning efforts for the High Desert Corridor project include the provision of a median right-of-way large enough to accommodate the potential future inclusion of railroad tracks.
F-80	Section 4(f)	San Manuel Band of Mission Indians	The Department of Transportation Act, section 4(f) evaluation is incomplete. The FEIS presents inadequate information as to the nature. Significance and extent of the potentially eligible 4(f) historic properties. These include but are not necessarily limited to culturally significant landscapes where significant traditional events, activities or cultural observances have taken place that are associated with events that have made a significant contribution to the broad patterns of Serrano,	Please see the response to comment F-34.

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			Mohave and Chemehuevi Indian history. These include landscapes such as the area of the Halloran rock landscape, nearby pre-historic quarries, Mojave River landscape, Cronese Lake habitation sites. Mojave trail, and Chemehuevi Salt Song trial, Mohave Dream Song Trails, Serrano Traditional Trails and other pre-historic trails.	
F-81	Section 4(f)	San Manuel Band of Mission Indians	The FEIS improperly excludes historic properties from 4(f) consideration as eligible under other National Register of Historic Places criteria and considers only under Criterion D ... After consultation with the SHPO or in this case the BLM and the appropriate Native American Tribes and/or Tribal Historic Preservation officer concludes that the archaeological resource is important chiefly because of what can be learned by data recovery and has minimal value for preservation in place...The required consultation with Tribes for a determination that the resource is important chiefly because of what can be learned by data recovery and therefore has minimal value for preservation in place, has not occurred with regard to the 4(f) properties evaluated in FEIS. . . . The consultation with Tribe; as to 4(f) eligibility of Halloran, Cronise and that CA-SBR 07098, CA-SBR-00885 has been inadequate. Consultation took place on the Halloran and Cronise sits with site visits in January 2010. The Tribe expected that there would be a continuing dialogue as the 4(f) eligibility. The Tribe was not informed or consulted of pending determinations to remove these sites or others sites.	As stated in Final EIS Section 3.15.2, the FRA employed several specific criteria in assessing which cultural resources might qualify for protection under Section 4(f). The commenter appears to assert that resources that are found to be eligible for the National Register under Criterion D of the National Historic Preservation Act (36 CFR 60.4) should be considered potential Section 4(f) resources. As stated in Final EIS Section 3.15.2, only those archaeological resources determined to have value for preservation in place (in other words, those that are found to be eligible for the National Register under Criteria A, B, or C of the NHPA) are considered potential Section 4(f) resources. FRA believes this evaluation and approach is fully consistent with its responsibilities under Section 4(f). . As documented in Final EIS Section 4.0, the FRA and Cooperating Agencies consulted with interested Tribes regarding the Section 4(f) process. This consultation included a field visit in January 2010 to several sites potentially qualifying as Section 4(f) resources. Through this visit and subsequent consultation, project changes and modifications were developed and analyzed in the Supplemental Draft EIS and Final EIS that would avoid or minimize impacts to the identified resources. Final EIS Section 3.15.4.5 describes in detail the process the FRA, the BLM, and other Cooperating Agencies utilized in completing the Section 4(f) evaluation. The Programmatic Agreement for the Project sets forth a phased approach wherein formal eligibility determinations will occur after the Preferred Alternative is ratified by the Lead and Cooperating Agencies through Records of Decision. The FRA and the BLM took extensive steps (documented in Final EIS Section 3.15.4.5) using best-available information to develop preliminary eligibility determinations for all potential Section 4(f) resources. All of these resources were located on land under BLM control and BLM staff has reviewed the preliminary eligibility determinations. Under the Terms of the 2007 State Protocol Agreement among the California Director of the BLM and the SHPOs of California and Nevada, the BLM cultural resource staff in the project region are empowered to act on the SHPO's behalf in some circumstances, including making eligibility determinations for archaeological resources. In the event that the BLM should, acting under the terms of the Programmatic Agreement, determine that one or more of the potential Section 4(f) resources evaluated herein are in fact eligible for the National Register under a criterion other than "D", a supplemental evaluation will be required. The FRA believes the scenario described by the commenter is extremely remote, since site records were prepared for all of the candidate Section 4(f) resources, and the BLM field offices carefully reviewed these records in helping the FRA arrive at the preliminary eligibility determinations in the Final EIS Section 4(f) evaluation.

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F-82	Section 4(f)	San Manuel Band of Mission Indians	The Tribe disagrees with the determination that CA-SBR-00885 is eligible under criterion "D" only. The site should also be eligible under NHRP criterion "A." The site has not been assessed as a cultural landscape.	The resource in question is outside the APE, as noted in Table F-3.15-2 of the Final EIS. The FRA and the BLM visited this resource site with several interested Tribes during a January 2010 field visit. Although outside the APE, the site was nonetheless assessed for possible visual effects to the resource site. The proposed rail alignment would be on grade and would run in between the resource area and an existing Caltrans rest area and parking lot. Owing to the compromised nature of the visual environment, the FRA and the BLM did not conclude that the Project would adversely affect the resource in question. Therefore, the FRA, in consultation with BLM, saw no compelling reason to carry forward this resource into the detailed Section 4(f) evaluation. Please also see the response to comment F-81.
F-83	Section 4(f)	San Manuel Band of Mission Indians	The Tribe disagrees with the determination that CA-SBR-03694 is eligible under criterion "D" only. The site should also be eligible under criterion "A." The required consultation with Tribes for determination that the resource is important chiefly because of what can be learned by data recovery and has minimal value for preservation in place, has not occurred with regard to this property.	National Register eligibility for this resource had been previously determined; the resource was found to be eligible only under Criterion D. The Final EIS reflects an update in light of the proposed Project. According to the BLM, the nature of this resource site in the Project area is a large lithic scatter. The site is extraordinarily expansive in area; in places the known boundaries of the site envelop both lanes of the I-15 freeway, as well as Field Road and the Caltrans rest area. For the portion of the resource site within the Project APE, the above factors are not contributing to the site's eligibility for the National Register. Please also see the response to comment F-81.
F-84	Section 4(f)	San Manuel Band of Mission Indians	The Tribe disagrees with the determination that CA-SBR 07098/H is eligible under criterion "D" only.	As stated in Table F-3.15-2, the FRA and the BLM determined that this site would be eligible for the National Register only under criterion D. The FRA and the BLM are unaware that the site is associated with events that have made a significant contribution to broad patterns of American history (criterion A), associated with the lives of persons significant in our past, (criterion B) or that embody distinctive characteristics of a type, period, or method of construction that represent the work of a master or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction (criterion C). Please also see the response to F-81.
F-85	Section 4(f)		The Tribe disagrees with the determination that JSA -SD-S-002 is eligible under criterion "D" only. This site should be evaluated as part of larger cultural landscape.	Based on information gathered through field visits, literature searches, and other means, the FRA and the BLM agreed to a preliminary eligibility conclusion for the site, a prehistoric trail, would only be eligible under criterion D, owing to fragmentation of the trail and no discernable connection between the trail and other qualifying resources. Please also see the response to comment F-81 As noted above in the response to comment F-34, none of the cultural resources identified within the Project APE are known to be traditional cultural properties; as such, landscape level analysis as suggested by the commenter is not warranted.

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F-86	Traffic and Transportation	City of Barstow	The FEIS does not require either the lead agency or the applicant to actually implement the recommended mitigation measures; rather, it only suggests that "[a]pplicant would be responsible to contribute to these mitigation measures equal to their fair-share of the adverse effect as determined by the appropriate jurisdictional authority." The FEIS does not, however, examine whether programs are actually in place in the affected jurisdictions under which the applicant would be required to contribute on a "fair share" basis. Moreover, the FEIS contains no analysis of what the applicant's "fair share" would be for any of the recommended mitigation measures. Furthermore, the FEIS contains absolutely no analysis of the likelihood that any particular mitigation measure would actually be implemented, even if the applicant were required to pay its "fair share." Therefore, the FEIS is entirely lacking in evidentiary support for its conclusion that the identified potentially significant traffic and transportation impacts will be mitigated by the measures discussed in the document.... Since the FEIS does not require the mitigation measures to be adopted and implemented, the potentially significant traffic and transportation impacts identified in Section 3.5 remain significant and unavoidable. Thus, the conclusion in the FEIS that all impacts will be mitigated by the mitigation measures is erroneous and fails to comply with the statutory mandate of NEPA that all environmental impacts of the proposed Project be identified to allow informed decision-making.	The Record of Decision incorporates all mitigation measures from the Final EIS and the Biological Opinion as formal commitments for the project. Please see Section 8.0 of this Record of Decision. The Final EIS (Table F-3.5-8) identifies the types of mitigation that would alleviate projected traffic impacts at various intersections near the station areas. The mitigation measures were reviewed by the respective State Departments of Transportation in California and Nevada; these agencies advised the FHWA throughout preparation of the NEPA documents. Per Section 8.0 of this Record of Decision, Consistent with 40 CFR 1505.3, the FRA as lead agency and certain Cooperating Agencies will monitor construction and operation of the Project to ensure that all Agency decisions are carried out. This will include but is not limited to a comprehensive mitigation and monitoring plan that the FRA and certain Cooperating Agencies will require and oversee as a means to ensure that all commitments identified in Appendix A are upheld during construction and operation of the Project. Therefore, the FRA has concluded that these reasonable and feasible measures are all implementable and that their implementation can be verified.
F-87	Transportation	EPA	In our comments on the SDEIS, we highlighted the fact that the U.S. Department of Transportation (DOT) has committed to supporting sustainable communities through the HUD/DOT/EPA Partnership for Sustainable Communities. We believe that with additional project commitments, such as coordination with other transit providers to facilitate intermodal connections, commitments to work with local land use planning authorities to implement land use controls in the station area and surrounding areas, and commitments to coordinate this project with other federal investments in the project area, this project could better support the principles that HUD, DOT, and EPA committed to supporting as part of the Partnership....EPA also has remaining concerns about the air quality and growth inducement impacts of a project terminus in Victorville, due to the fact that the majority of riders would drive to the station from larger population centers throughout Southern California. We reiterate our recommendation that FRA coordinate with other public and private transit providers to encourage non-automobile trips to the DesertXpress stations. We specifically recommend coordination with local transit providers in Las Vegas, such as the Regional Transportation Commission of Southern Nevada, in order to facilitate intermodal connections.	As the FRA communicated to the EPA in a conference call on April 24, 2011, the FRA shares the EPA's interest in seeing that any future Las Vegas passenger rail station is well-served by public transportation options, reducing the need for individual automobile travel and thus resulting in lower emissions of air pollutants in and around the station site. As indicated in this conference call, the Applicant has initiated discussions with transit service providers in the Las Vegas area to identify how either of the Las Vegas station site options might be served by the rerouting of existing bus lines or the introduction of new lines. Station design in both Victorville and Las Vegas will be able to accommodate bus ingress and egress. The Applicant has committed to a voluntary Mitigation Measure GRO-2 in which it commits to work with local land use planning authorities to encourage implementation of transit oriented and master planned development at the selected station site and surrounding areas; and will work with local transit providers to facilitate intermodal connections where practicable.
F-88	Transportation/ Safety	Dean Martin Rural Neighborhood Preserve Association	How susceptible are train operations to wind speeds in excess of 50 mph along the above grade tracks?	As stated in Final EIS Section 2.3.2.4, variants of the proposed EMU train set have been in operation in Sweden, China, and elsewhere. As also noted in this section, the Applicant has proposed utilizing a variant of this technology that has been customized for the unique meteorological setting of the Mojave Desert. Such meteorological conditions include high temperatures, high winds, and sand storms.
F-89	Transportation/ Safety	Dean Martin Rural Neighborhood Preserve Association	Will the pillars for the above grade tracks, north of Blue Diamond Road, create a vehicle safety hazard?	Please see Final EIS Section 2.5.2.3, which contains an analysis of potential safety concerns of the project relative to ongoing safe freeway operations. This analysis was led by the FHWA, in close coordination with Caltrans and the Nevada DOT. The FHWA examined project plans for above grade tracks relative to accident records for the involved length of the I-15 freeway. These efforts were reflected in the Highway Interface Manual (Appendix F-B of the Final EIS), collaboratively developed by the Applicant, the FHWA, and the State DOTs. Mitigation in the Final EIS and incorporated in this Record of Decision requires that the design-build efforts to construct the project be

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				conducted in coordination with FHWA, Caltrans, and Nevada DOT to ensure that appropriate “clear zones” and other safety measures are incorporated into the built design.
F-90	Transportation/ Safety	Marks	The selected route indicates an elevated track necessary to clear the Silverado Ranch interchange; the Silverton Hotel and the Blue Diamond State Highway 160 flyover. The height of this elevated tract is upwards of 50-80 feet plus catenaries equipment. The problem stems from high winds. How is life and property protected from uncontrollable winds (some in excess of 50 miles per hour)?	As stated in Final EIS Section 2.3.2.4, variants of the proposed EMU train set have been in operation in Sweden, China, and elsewhere. As also noted in this section, the Applicant has proposed utilizing a variant of this technology that has been customized for the unique meteorological setting of the Mojave Desert. Such meteorological conditions include high temperatures, high winds, and sand storms.
F-91	Transportation/ Safety	Marks	The EIS cites traffic statistics to support its position that removal of vehicles from Interstate 15 will make travel easier and less hazardous by reducing accidents. Of particular note was the statistics pertaining to rear end accidents. Most accidents are the result of driver error (on the phone, texting, simply not paying attention or acts of god such as blown tires on trucks) it is difficult to accept, with any certainty, that the simple reduction in traffic flow numbers will reduce rear end or fatal accidents. In order to achieve such an objective, you have to have better roads and drivers, not necessarily less cars as well as more law enforcement.	As stated in Final EIS Section 1.3.2, freeway congestion is one factor related to rear-end collisions. The FRA does not dispute that other factors contribute to rear-end collisions. However, because of the potential for the proposed rail system to reduce traffic and thus reduce congestion it would also have the reasonably foreseeable effect of reducing the rate of rear-end collisions.
F-92	Utilities	Southern California Edison	The Federal Railroad Administration's (FRA) presumption of federal preemption to the California Public Utilities Commission's licensing and permitting authority continues to be an open issue. Despite the Surface Transportation Board (STB) decision issued June 25, 2007, concerning federal preemption of DesertXpress from most state and local laws, it remains SCE's understanding that while the rail portion of the DesertXpress may be preempted, SCE's electric facilities are not and remain subject to CPUC General Order 131-D (GO 131-D), which sets forth the requirements and the CPUC's authority for, among other things, construction and relocation of electric facilities above 50 kV pursuant to the California Environmental Quality Act (CEQA).... SCE in prior comments has recommended the FRA contact the CPUC Energy Division to discuss the assumed federal preemption of CPUC authority. Based on recent communications with the CPUC Energy Division and the applicant DesertXpress Enterprises, LLC, SCE believes that no discussion between the parties has taken place. SCE again urges the FRA to contact the CPUC Energy Division to ensure the proper approach is taken on the federal preemption issue. Please be advised if development plans result in the need to build new or relocate existing SCE electrical facilities that operate at or above 50 kV, the SCE construction may have environmental impacts subject to CEQA review as required by the CPUC. If the SCE facilities are not adequately addressed in the CEQA review for the larger project, and the new facilities could result in significant environmental impacts, the required additional CEQA review at the CPUC could delay approval of the SCE power line portion of the project for two years or longer. Additionally, if new construction/relocation of SCE facilities is required for the proposed project, further delays may occur due to the SCE development process of required electrical infrastructure.	Please see the responses to comments S-322 and S-323 of the Supplemental Draft EIS (Final EIS pages 4-134 through 4-135). A power source for the project has not yet been identified, but the project includes all necessary electrical infrastructure. As stated in the response to comment S-323, the STB’s June 2007 decision stated that the project would be expressly preempted from any state and local permitting requirements that could be used to deny or unnecessarily delay the railroad’s right to proceed with the project (a right which would attach with the STB’s Record of Decision on the proposed action). The STB explained in comment S-323 that there is a body of court decisions relating to the preemption provisions of 49 U.S.C. 10501(b) and that guidance beyond those decisions could only be granted by the STB Board itself or a court of competent jurisdiction.
F-93	Utilities	Southern California Edison	SCE Company right-of-ways and fee-owned properties are purchased for the exclusive use of SCE to operate and maintain its present and future electric system facilities. Any proposed use of SCE rights-of-way will be reviewed on a case-by-case basis by the appropriate SCE operating department. Approvals or denials will be in writing based upon review of the maps provided and compatibility with SCE right-of-way constraints and rights.	The comment is noted.
F-94	Utilities and Services	City of Barstow	The FEIS states that new stations may be needed for the Clark County Fire Department and the San Bernardino County Fire Department, but there is no analysis regarding the potential environmental impacts associated with such new facilities in either of the draft documents or the FEIS. (DEIS, pp.	Section 3.4.2.3 of the Final EIS identifies that the Preferred Alternative will create incremental demand for certain additional fire and emergency services. These conclusions were drawn from consultation with local fire and emergency service

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			3.4-35 to 3.4-36, SDEIS pp. 3.4-16 to 3.4-17, FEIS pp. 3.4-16 to 3.4-17.) The FEIS further states that the Barstow Fire Protection District informed the FRA that present staffing levels are insufficient to meet the needs of Segment 2C and new facilities will be necessary if this Segment is part of the final Project, but there is no analysis of the environmental impacts associated with such new facilities in either the drafts or the FEIS. (DEIS, pp. 3.4-35 to 3.4-36, SDEIS p. 3.4-16, FEIS p. 3-4.17.) Instead, the FEIS dismissed this comment by claiming that due to the Project's close proximity to two existing stations in Barstow, the additional need for the proposed Project can be readily met with the existing stations. The FEIS completely ignores the specific concerns raised in the comment. The failure to address these potential environmental impacts in the FEIS renders the analysis of environmental impacts associated with utilities and services inadequate under NEPA.	providers in the project region. These providers indicated that the incremental demand of the proposed rail system would contribute to a need for new equipment and/or facilities. Mitigation Measure UTIL-6 requires that the Applicant pay impact fees to each affected agency at the time the applicant seeks a permit to construct. Per Section 8.0 of this Record of Decision, the Applicant must demonstrate to the FRA that compliance with these and other mitigation commitments has been achieved.
F-95	Visual	Dean Martin Rural Neighborhood Preserve Association	The effects of light pollution were not considered. The above grade tracks must have shielded lighting to protect the adjacent residents and businesses. The at-grade tracks north of St. Rose Parkway have residents less than 50ft. from the tracks who need to be protected.... Lighting for the sub-station and maintenance facility were not addressed.	Final EIS Section 3.6 .2.3 evaluated the potential for light and glare. Sources of nighttime lighting would only include the lighting at stations and maintenance facilities and the headlights of passing trains. To mitigate the potential adverse effects from the lighting associated with the Preferred Alternative, Final EIS Section 3.6.3.1 includes Mitigation Measures VIS-1 and VIS-5. Implementation of Mitigation Measure VIS-1 requires the Applicant to place visual screening on the top of the crash barriers along the entire rail corridor. Analysis during the design-build process shall determine the specific details for the screening and if there are locations where it may not be needed. Implementation of Mitigation Measure VIS-5 requires the Applicant to design the lighting at stations and maintenance facilities to minimize disruption of the natural dark at night in the non-urbanized landscape. The final lighting plan for these stations and maintenance facilities shall incorporate light and glare screening measures such as the use of plantings to screen well-lit areas, use of downward cast lighting, and the use of motion sensor lighting where appropriate.
F-96	Visual	Dean Martin Rural Neighborhood Preserve Association	The businesses located north of Blue Diamond Road will have their signs blocked by the above grade track structure. This could result in severe economic impact to business and property owners.	The visual environment of the I-15 freeway through metropolitan Las Vegas, particularly points north of Blue Diamond Road, is highly disturbed with numerous signs, buildings, and other attractions competing for visual attention. The addition of an elevated section of railroad in this environment would not constitute a substantial adverse physical environmental impact. Please see Final EIS Section 3.6.2.3 for a discussion of the visual effects related to the Preferred Alternative.