UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

April 27, 2009

Mr. Eric Eidlin
U.S. Department of Transportation
Federal Transit Administration
201 Mission Street, Suite 1650
San Francisco, California 94105

Subject: Draft Environmental Impact Statement for the Silicon Valley Rapid Transit Corridor, Alameda and Santa Clara Counties, California (CEQ #20090064)

Dear Mr. Eidlin:

The Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. Our detailed comments are enclosed.

EPA provided comments on the previous Draft Environmental Impact Statement (DEIS) for this project in a May 21, 2004 letter. At that time, we expressed concerns about the connection of the project to the Bay Area Rapid Transit Warm Springs Extension project, as well as water quality, air quality, and environmental justice issues. Some of our previous concerns have been addressed in the current DEIS; however we have remaining concerns about water quality, noise impacts, and environmental justice. Therefore, EPA has rated this document EC-2, *Environmental Concerns, Insufficient Information*. Please see the attached *Rating Factors* for a description of our rating system.

We commend the Federal Transit Administration and the Santa Clara Valley Transportation Authority for seeking to provide public transportation options to residents of the Bay Area. We also commend the inclusion of improving air quality by reducing auto emissions and support of corridor cities' efforts to encourage transit-oriented development in the purpose of the project.

We appreciate the opportunity to review this DEIS and look forward to future coordination on the project. When the Final EIS is released for public review, please send two copies to the address above (mail code: CED-2). If you have any questions, please contact

Carolyn Mulvihill, the lead reviewer for this project, at 415-947-3554 or mulvihill.carolyn@epa.gov.

Sincerely,

For Kathleen M. Goforth, Manager
Environmental Review Office (CED-2)

Enclosures:
Summary of EPA Rating Definitions
EPA's Detailed Comments

cc: Tom Fitzwater, Santa Clara Valley Transportation Authority

Coordination with Other Transit Services

In our comment letter on the previous Draft Environmental Impact Statement (DEIS), EPA had questioned the connection of this project to the Bay Area Rapid Transit (BART) Warm Springs extension. Since those comments, the environmental review process for the BART Warm Springs extension was completed. The DEIS for the Silicon Valley Rapid Transit Corridor (SVRTC) states that the Warm Springs extension will begin construction in 2009 and revenue operations in 2014. Since both of the SVRTC build alternatives assume, and are dependent on, the construction of the Warm Springs extension, the FEIS should verify the current status and timeline for that project.

The Silicon Valley Rapid Transit Project (SVRTP) Alternative proposes a tunnel underneath a portion of the Caltrain alignment where the California High Speed Train (HST) alignment is also proposed. A notice of intent for a DEIS for the segment of the HST proposed to run between San Francisco and San Jose was published on December 29, 2008. The Federal Transit Administration (FTA) and the Santa Clara Valley Transportation Authority (VTA) should coordinate with the Federal Railroad Administration (FRA) and the California High Speed Rail Authority on planning and construction of the two projects and document this coordination in the FEIS.

EPA is also interested in broader impacts of the proposed project on BART system operations. While the DEIS discusses how many additional riders will be attracted to the system as a result of the project, it does not discuss the implications of this increase in ridership on system facilities, aside from the increased demand for parking. The FEIS should include additional information on how increased ridership will affect train and station capacity, and how these impacts will be addressed by VTA and BART.

Recommendations:

- Verify the current status and timeline for the BART Warm Springs extension in the FEIS. Any changes in that project should be identified and the implications for the SVRTC project and BART system connectivity discussed.
- Coordinate with the FRA and the California High Speed Rail Authority on planning and construction of the portion of the HST and SVRTC projects that will share the same horizontal alignment. Identify any potential conflicts between the two proposed projects in the FEIS. Document past coordination and plans for future coordination.
- Include additional information in the FEIS on how increased ridership resulting from the proposed project will affect train and station capacity throughout the BART system, and how VTA and BART will address those impacts.

Wetlands and Water Quality

Wetlands and Riparian Habitat

Estimated impacts to wetlands and waters of the United States from either of the build alternatives are 0.56 acres of seasonal and freshwater emergent wetlands. The DEIS states that the proposed project will avoid temporary and permanent adverse effects to wetland and waters of the United States, and to riparian habitat, to the maximum extent practicable. The FEIS should include additional information about proposed avoidance options, such as spanning creeks, in addition to the setbacks from riparian corridors stated in the DEIS.

The DEIS states that the SVRTC would be at grade where the alignment would cross Agua Caliente Creek, Agua Fria Creek, Toroges Creek, Line B-1, Line B, Scott Creek, Calera Creek, Berryessa Creek, and Wrigley Creek. The FEIS should clarify where the current rail right-of-way is proposed for expansion or will require additional bridge structures at creek crossings and what potential water quality or habitat impacts could result from both construction and operation of these structures. The FEIS should also address potential impacts to Upper Penitencia Creek, which is designated as Essential Fish Habitat (EFH) for steelhead and Chinook salmon.

Recommendations:

- Include additional information in the FEIS regarding how impacts to wetlands and waters of the United States, and riparian habitat, will be avoided.
- See http://www.epa.gov/wetlandsmitigation/ for information on compensatory mitigation and the March 2008 Compensatory Mitigation Rule published by EPA and the U.S. Army Corps of Engineers (ACOE). Ensure that proposed mitigation for impacts to waters of the United States comply with the Mitigation Rule.
- Include additional information in the FEIS about which creek crossings will require expansion of the existing rail right-of-way or bridge structures and what impacts to water quality or wildlife habitat may result. In particular, discuss potential impacts to Upper Penitencia Creek, which is designated as EFH for steelhead and Chinook salmon, and impacts to those species.

Flood Protection

Our previous comments on the 2004 DEIS included a concern that the Upper Penitencia Creek Flood Protection Project, which was designed to manage flows in 100-year flood events, had changed from what had been discussed in that document. The current DEIS states that the Santa Clara Valley Water District (SCVWD) and the ACOE are studying alternatives to reduce flooding potential along Upper Penitencia Creek. The FEIS should include up-to-date information on plans for flood protection at this location and whether those plans are compatible with plans for the Berryessa Station and the adjacent rail alignment.

Recommendation:

- Include up-to-date information in the FEIS on the planned Upper Penitencia Creek Flood Protection Project and compatibility with the proposed Berryessa Station and adjacent rail alignment.

Noise and Vibration Impacts

The DEIS contains a thorough analysis of potential noise and vibration impacts to sensitive receptors along the proposed alignment. EPA is concerned, however, about severe noise impacts that the DEIS states would remain after proposed mitigation. EPA encourages VTA to consider additional noise abatement measures, such as noise insulation of receptor sites, to mitigate these severe noise impacts. We also encourage all practicable mitigation for vibration impacts that exceed the FTA criteria.

The DEIS also discusses mitigation of construction noise impacts but does not include information on how much the mitigation would lower the projected noise levels. This information should be included in the FEIS.

Recommendations:

- Consider additional noise abatement measures, such as noise insulation of receptor sites, for residences and other sensitive receptors that would experience severe noise impacts. Provide quantitative information in the FEIS on the decrease in noise impacts from additional mitigation strategies.
- Implement mitigation strategies for vibration impacts that exceed the FTA criteria.
- Provide quantitative information in the FEIS on how much proposed mitigation would lower projected construction noise levels.

Environmental Justice

Results of Public Outreach to Environmental Justice Communities

In our previous comments on the 2004 DEIS, EPA stated that VTA had undertaken an extensive outreach effort to encourage public involvement in the SVRTC planning process, including outreach to many organizations and media agencies that serve the minority and low-income segments of the community. However, we noted that the previous document did not address the success of those efforts and the level of meaningful involvement of the affected communities. For example, while Spanish and Vietnamese interpreters were available by request at public meetings, the DEIS did not mention how often those services were used. It also did not discuss what concerns were raised by members of environmental justice communities or their representative organizations, and how those concerns may have influenced the proposed project.

We reiterate those concerns about the current DEIS. While VTA has undertaken a significant public outreach effort, the FEIS should include specific information about how environmental justice communities have been involved in the process.

Recommendation:

- The FEIS should document the involvement of minority and low-income members of the community in the project planning process and discuss how any concerns raised by community members influenced the proposed project.

Potential Local Bus Service Reductions and Fare Increases

EPA also remains concerned that low-income and/or minority communities could be impacted by changes in other transit service due to the project. This could occur either due to the elimination of bus routes resulting from a new operations plan, or from funding shortfalls.

One of the goals of the SVRTC project is to maintain adequate funding to sustain the existing transportation system while securing new funding sources for system expansion. State and local government budget constraints and other factors, however, have raised the concern that it may be necessary to reduce local bus service and increase fares. This could have impacts on environmental justice communities if they rely on local bus services. The DEIS includes an analysis of the project's impacts on transit service in the area, but only looks at a selection of origin-destination pairs, which all indicate time savings resulting from the project.

Recommendation:

- The FEIS should discuss the potential for decreased local bus service as an indirect impact of this project, and the disproportionate impact such a reduction in bus service would have on low-income and minority populations. This could include (1) the provision of additional information regarding historic and anticipated (both near-and long-term) service changes and increases in fares, and (2) an evaluation of the linkage that may exist between funding the proposed project and impacts to service or fare increases that are anticipated in the future.

Geographic Impact Analysis

The environmental justice analysis should also consider whether the specific locations of impacts, such as noise, air quality, or displacement, are in low-income and/or minority areas. The environmental justice section of the DEIS discusses the overall impacts of the project, but does not specify the geographic locations of particular impacts, and whether those locations would be in low-income and/or minority areas. In addition, an environmental justice analysis of construction impacts should be included in the FEIS.

Recommendations:

- Provide an analysis in the FEIS that identifies the geographic location of impacts and whether those locations are in environmental justice communities.
- Include an environmental justice analysis of construction impacts in the FEIS and identify mitigation where feasible.
- Ensure that the proposed project is consistent with the U.S. Department of Transportation Order on Environmental Justice (http://www.fhwa.dot.gov/environment/ejustice/dot_ord.htm).

Air Quality

The DEIS states that the SVRTP alternative was excluded from the Metropolitan Transportation Commission (MTC)'s 2030 regional transportation plan (RTP) air quality conformity analysis because construction and operation of the project could not be included in the financially constrained plan. EPA understands that the complete project is included in MTC's 2035 plan, and therefore is now in compliance with conformity requirements. This information should be documented in the FEIS.

Recommendation:

- Update the air quality section of the FEIS to reflect the SVRTC's compliance with air quality conformity requirements.

Section 106 Consultation

The DEIS states that a Programmatic Agreement (PA) and a supporting Cultural Resources Treatment Plan (CRTP) to manage potential disturbance of archaelogical resources and impacts to historic architectural resources will be developed and executed by VTA in consultation with the appropriate government and historic preservation bodies, and the Native American community. EPA recommends that the PA and CRTP be developed prior to publication of the FEIS and mitigation commitments documented in the Record of Decision (ROD).

Recommendation:

- Develop the PA and CRTP prior to publication of the FEIS and document resulting mitigation commitments in the ROD.

Climate Change

A number of studies specific to California have indicated the potential for significant environmental impacts as a result of changing temperatures and subsequent

environmental impacts.[1] The California Climate Action Team just released a report on the impacts of climate change to California, the latest research, and state efforts to adapt to impacts (http://www.climatechange.ca.gov/publications/cat/index.html). EPA recommends that the FEIS address the potential effects of climate change on the proposed project and identify if there are specific adaptive management strategies needed to protect the project from these effects.

Recommendation:

- Include a discussion in the FEIS of the potential impacts of climate change on the proposed project and identify adaptive management strategies to protect the project from those impacts.
- We encourage VTA to implement the "green building" strategies discussed in the DEIS, to reduce environmental impacts and to facilitate compliance with potential future greenhouse gas reduction requirements.

[1]Our Changing Climate: Assessing the Risks to California, A Summary Report from the California Climate Change Center, July 2006.