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

January 4, 2007

Ms. Susan A. Meyer, Senior Project Manager
Regulatory Branch, U.S. Army Corps of Engineers
Los Angeles District
P.O. Box 532711,
915 Wilshire Boulevard,
Los Angeles, CA 90053-2325

Subject: Draft Environmental Impact Statement (Draft EIS) for the Cajon Third Track Project (CEQ# 20060462)

Dear Ms. Meyer:

The U.S. Environmental Protection Agency (EPA) has reviewed the Draft EIS referenced above. Our review is 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. The November 9, 2006 Notice of Availability for this Draft EIS also serves as the Public Notice for the Clean Water Act (CWA) Section 404 permit for the proposed project. Therefore, these comments have also been prepared under the authority of, and in accordance with, the provisions of the Federal Guidelines (40 CFR 230) promulgated under Section 404(b)(1) of the CWA (Guidelines).

EPA's two primary concerns with the proposed project regard air and water quality impacts. Based on these concerns, we have rated the Draft EIS as *EC-2, Environmental Concerns - Insufficient Information* (see enclosed "Summary of Rating Definitions"). Our detailed comments are enclosed.

The proposed project is designed to increase the capacity of the freight network for improved goods movement. The project will introduce increased freight traffic, and associated diesel emissions, to an area that is designated as non-attainment for several criteria pollutants. EPA has environmental concerns related to the air quality impacts of the project and provides recommendations to improve the air quality analysis methodology and mitigation measures.

Burlington Northern Santa Fe (BNSF) has applied to the U.S. Army Corps of Engineers (ACOE) for a Clean Water Act Section 404 permit to construct a third track through the Cajon Pass in San Bernardino County, California. The proposed project would have permanent impacts to 2.95 acres of waters of the United States, including 1.56 acres of wetlands. EPA has concerns with the analysis of on-site alternatives, project-related impacts to waters and characteristic fauna, and compensatory mitigation. As stated in previous interagency meetings, EPA continues to recommend that BNSF and ACOE commit to additional design measures to improve hydrological flows at stream crossings throughout the project area. With the large number of stream crossings and culverts crossed by the 15.9 mile project, multiple opportunities

for improving aquatic resources exist and specific applicable design modifications should be provided as commitments in the Final EIS.

EPA commends BNSF on the commitment to make a monetary contribution for the purchase 60 acres of land near the Cleghorn Road underpass to ensure that needed wildlife linkages and functional connectivity will be maintained in the Cajon Pass area. EPA recommends that additional information related to the logistics behind this contribution, such as who will own, manage, maintain the land and when the property will be purchased, be included in the text of the Final EIS to clarify the BNSF commitment.

We also commend the Corps' efforts to solicit EPA's early input on the proposed project through interagency conference calls and meetings, site visits, and reviews of draft technical documents. We appreciate the opportunity to review this Draft EIS. When the Final EIS is released for public review, please send (2) copies to the address above (mailcode: CED-2). If you have any questions, please contact Connell Dunning or Summer Allen, the lead reviewers for this project. Connell can be reached at (415) 947-4161 and Summer can be reached at 415-972-3847.

Sincerely,

/s/ Connell Dunning for

Paula Bisson, Manager
Environmental Review Office

Enclosure: Summary of Rating Definitions
Detailed Comments

CC: David Valenstein, Federal Railraod Administration
Thomas J. Stone, DesertXpress
Steve Loe, US Forest Service
Steve Smith, South Coast Air Quality Management District
Alan DeSalvio, Mojave Air Quality Management District
John Hanlon, US Fish and Wildlife Service
Raul Rodriguez, California Department of Fish and Game

EPA DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR CAJON THIRD TRACK PROJECT, JANUARY 4, 2007

Air Quality

Air Quality Monitoring Stations

EPA is concerned that the Draft EIS does not properly reflect the existing criteria pollutant data from monitoring stations near the project area. This is important given that the project area is in nonattainment status for a number of criteria pollutants. On Page 3-17, Table 3.3-2, *Ambient Air Quality at Air Monitoring Stations Closest to the Project Area in the Draft Environmental Impact Statement (Draft EIS)*, indicates that criteria pollutant data are taken from monitoring stations at either Hesperia (instead of Crestline) or Victorville (instead of San Bernardino/4th Street), depending upon the pollutant. However, the Figure 3-1 map appears to show that the project area is similar in distance to both the Crestline and Hesperia stations and to the San Bernardino 4th Street and Victorville stations. Ozone maximum 1-hour and 8-hour concentrations and the number of days exceeding the State and National Ambient Air Quality Standards (NAAQS) at Crestline are among the highest in the country. In addition, particulate matter less than 2.5 microns in diameter (PM2.5) concentrations at the San Bernardino/4th Street monitor are among the highest in the country. (See http://www.arb.ca.gov/adam/php_files/aqdphp/sc8display.php)

Recommendation:

EPA recommends that the ozone concentrations at Crestline should be shown in place of, or in addition to, the Hesperia Station in order to more accurately reflect the high ozone levels that have been recorded in the project area. PM2.5 and other NAAQS concentrations from the San Bernardino/4th Street monitor should also be shown in place or, or in addition to, data from the Victorville monitor. Should the revisions to these tables result in a determination to implement additional mitigation measures, the Final EIS should reflect this.

General Conformity

EPA is concerned that estimated construction emissions are presented without clear documentation of what factors contributed to the emissions values provided. Section 3.3.1.3, *Evaluation of Conformity*, states that the proposed actions' construction emissions are less than the de minimis levels set by the federal general conformity rule. Table 3.3-9 provides total tons per year emissions from construction for volatile organic compounds (VOC) nitrous oxides (NOx), carbon monoxide (CO) and particulate matter less than 10 microns in diameters (PM-10) for the South Coast Air Basin (SCAB), which are below the de minimis levels; however, these numbers are inconsistent with the construction estimates in Table 3.3-5.

Recommendation:

EPA suggests providing an explanation in the Final EIS in Section 3.3.1.3 as to how the total emissions estimates used for general conformity are determined (e.g., what if any mitigation measures were applied). Air quality benefits linked to specific mitigation measures should be documented in a table clearly identifying each mitigation

commitment with associated benefits. For example, if diesel particulate filters are proposed to be used, the estimated reduction in pollutants should be provided.

Air Quality Impacts Associated with Transporting Fill Material

EPA is concerned that the air quality analysis in the Draft EIS does not include emissions associated with the multiple trucking trips needed to remove and transport fill from the project site. Page 3 of the Section IV of the July 2006 *Draft Excess Material Fill Study (Technical Report)* identifies that the proposed project will result in the need to remove and transport approximately 600,000 cubic yards of excavated material , or approximately 30,000 truck trips (estimated at 20 cubic yards per truck) over a period of 6 months to the pit site. Page 14 of the same document states, "*all potential impacts that could be caused by the filling of the Pit will be addressed in the Proposed BNSF Cajon Main Third Track Summit to Keenbrook EIS/EIR currently under preparation*". The Draft EIS does not clearly indicate if the 30,000 truck trips to the pit site were factored into air quality analyses.

Recommendation:

In the Final EIS, revise the Air Quality analyses in Chapter 3 to account for the emissions from 30,000 truckloads required to transport fill, as well as additional fugitive dust issues associated with the new fill site. Commit to additional minimization measures for these emissions. Provide a quantification of (1) the additional air quality impacts associated with the trucking of the fill and (2) the air quality benefits achieved by specific mitigation measures. If the analysis in the Draft EIS does include these impacts, update Chapter 3 to reflect this.

Operational Impacts Analysis

EPA is concerned that the truck-related operational emissions estimated to result from the No Action Alternative do not include reductions from available truck control measures. The analyses in Section 4.2.2 *Operational Impacts*, in Appendix B *Operational Emissions Calculations*, and in the General Conformity Table 4-10 compare Action (locomotive) operational emissions to No-Action (truck) operational emissions. These comparisons would be more meaningful if they also included a scenario in which truck emissions are not simply based on the latest version of EMFAC, but also included reductions from truck control measures, given that the area is a designated non-attainment area.

Recommendation:

To more accurately estimate operational emissions resulting from trucks in the No Action Alternative and to better compare the Action and No Action alternatives, EPA recommends that BNSF and ACOE consult with California Air Resources Board (CARB) and/or the South Coast Air Quality Management District (SCAQMD) to determine appropriate factors for making needed adjustments to future truck emissions. In the Final EIS, include a scenario in which truck emissions are not simply projected based on the latest available version of EMFAC, but are also projected based on reductions from truck control measures included in the following documents and additional measures recommended by CARB and SCAQMD:

(1) Appendices IV-A and IV-B in the Draft 2007 South Coast Air Quality Management Plan (http://www.aqmd.gov/aqmp/07aqmp/07AQMP.html), (2) California Air Resources Board's 2007 SIP Measures (http://www.arb.ca.gov/planning/sip/2006sym/descript101206.pdf), and (3) Section 5.1 -- "Heavy-Duty Vehicle (Trucks) Control Measures" in the San Pedro Bay Ports Clean Air Action Plan (http://www.polb.com/civica/filebank/blobdload.asp?BlobID=2967).

EPA recommends that the Final EIS use EMFAC2007 as the latest available version of EMFAC for projecting truck emissions (the Draft EIS uses EMFAC2002 version 2.2.).

Air Quality - Mitigation Measures

The Draft EIS provides several specific mitigation measures to reduce air quality impacts related to construction. Section 3.3.1.2.2, *Construction Emissions*, further states, "There are few mitigation measures that can reduce emissions associated with construction equipment exhaust (NOx emission source)." However, there are additional mitigation measures that can be considered and applied to reduce emissions. Under the National Environmental Policy Act (NEPA), "all relevant, reasonable mitigation measures that could improve the project are to be identified. Mitigation measures must be considered even for impacts that by themselves would not be considered significant (see Council on Environmental Quality (CEQ), 1981, "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations"). If specific mitigation measures are used for purposes of determining total emission levels, firm commitment to implementing the mitigation measures should be included in the Final EIS. The Final EIS must identify and commit to specific mitigation measures or specific emission reduction target levels not only for exhaust emissions but also for fugitive dust emissions.

Recommendation:

EPA provides the following recommendation for incorporation into the Final EIS, where feasible and applicable:

Project Operation (running and idling):

- Identify both: (1) fleet emissions based on fully documented estimations of average locomotive emissions for future years, and (2) fleet emissions assuming a commitment to greatly accelerated turnover to Tier 3 and Tier 4 locomotive engines and to full application of anti-idling devices and best practices. (These mitigation measures are appropriate, particularly given the high concentrations of ozone, PM2.5, and (presumably) diesel particulate matter in the general project area.)
- Use alternative fuels, including liquefied natural gas (LNG).
- Incorporate advanced emission control technologies, including selective catalytic reduction (SCR) and diesel particulate filters (DPFs).
- Commit to mandatory idling requirements for locomotives, especially where locomotives idle proximate to sensitive receptors.
- Accelerate the use of low-sulfur fuel, which would accelerate and facilitate the introduction of other control technologies (e.g., PM traps).

- Require cleanest, newest engine technology.

Project Construction

- Identify all commitments to reduce construction emissions and update the air quality analysis to reflect additional air quality improvements that would result from adopting specific air quality measures.
- Establish an activity schedule designed to minimize traffic congestion around the construction site.
- Utilize EPA-registered particulate traps and other appropriate controls to reduce emissions of diesel particulate matter and other pollutants at the construction site.
- Locate construction equipment and staging zones away from sensitive receptors.
- Use low sulfur fuel (diesel with 15 parts per million or less) in engines where alternative fuels such as biodiesel and natural gas are not possible.
- Reduce use, trips, and unnecessary idling from heavy equipment.
- Lease newer and cleaner equipment meeting the most stringent of applicable Federal or State Standards (see table: http://arb.ca.gov/msprog/ordiesel/documents/Off-Road%20Diesel%20Stds.xls)
- Periodically inspect construction sites to ensure construction equipment is properly maintained at all times.

Clean Water Act Section 404/Compliance with the Section 404(b)(1)Guidelines

The Guidelines provide the environmental criteria that must be met before the Corps can issue a Section 404 permit for the proposed project. The Final EIS and Record of Decision (ROD), which must be completed before the Corps issues a Clean Water Act (CWA) Section 404 permit for the project, need to clearly demonstrate that the project complies with the Guidelines. In EPA's June 13, 2006 comments on the applicant's Draft Biological Resource Assessment, we recommended that the Corps integrate the requirements of CWA Section 404 with NEPA in the formation of project purpose and alternatives, analysis of impacts, and development of mitigation measures. We commend the Corps for analyzing alternative routes for the proposed project (Section 2.3), and we are in agreement in concept with the conclusions in the Draft EIS regarding the practicability of off-site alternatives.

However, EPA has concerns with consideration of CWA Section 404 and compliance with the Guidelines as identified in the Draft EIS. Based on our review of the Draft EIS, there is insufficient information to make a determination as to whether the proposed project complies with all applicable provisions of the Guidelines (40 CFR 230.12(3)(iv)). Our specific concerns regard the analysis of on-site alternatives, project-related impacts to waters and characteristic fauna, and compensatory mitigation.

Analysis of On-Site Alternatives

The Draft EIS provides insufficient information to clearly demonstrate that the applicant's proposed project is the least environmentally damaging practicable alternative (LEDPA) to meet the project purpose, as required under the Guidelines (40 CFR 230.10(a)). While the proposed project involves modifications to culverts to improve wildlife access, it is unclear what types of modifications are proposed and which of the 75 existing culverts would be upgraded (Page 2-7). We are particularly interested in additional information regarding the

proposed mitigation measure to modify culvert sizes to accommodate wildlife access and minimize downstream erosion/sedimentation (Page 4-4), as this measure has the greatest potential to improve the condition of tributaries affected by the existing main tracks.

As indicated in our June 13, 2006 comments, the range of on-site alternatives should be expanded to include one or more alternative that replaces under-sized culvert(s) with either a larger culvert or a spanned crossing to actually improve the functional condition of the affected streams and provide more effective wildlife access under the rail lines. For instance, the culvert at M.P. 59.27X was identified as a priority for such improvement and we understood that the Draft EIS would include an analysis of the practicability of replacing the existing culvert with a spanned crossing in this area.

Recommendation:

In the description of baseline conditions, identify the tributaries that have already been impacted by under-sized culverts associated with the existing main tracks. Use this information to analyze the practicability of one or more alternatives involving the upsizing of priority culverts or the replacement with spanned crossings.

Provide more specific information regarding the proposed mitigation measure to modify culvert sizes cited above; identify the culverts to be upgraded, preferably on a map.

Assessment of Waters

According to the Draft EIS, ephemeral drainages "…have relatively minimal functions and values compared with the other aquatic resources…" (Page 3-77). As stated previously in our June 13, 2006 comments, EPA does not agree with this statement and questions the basis for this conclusion, particularly in the absence of a functional assessment. It is inappropriate to compare smaller, ephemeral tributaries with larger stream systems, ponds, or slope wetlands. Ephemeral streams represent an inherently differently type of water, and accordingly, function differently.

Ephemeral streams are important because of their role in maintaining the physical, chemical, and biological integrity of watersheds. In addition, the ephemeral streams make up the vast majority of stream miles in these relatively arid watersheds. The integrity assessment protocol developed by the Corps in support of their Special Area Management Plan (SAMP) projects in southern California uses several indicators at the drainage basin scale (which include the headwater streams) to assess the hydrologic, water quality, and habitat integrity of riverine waters. Given that most of the drainage basins contributing to tributaries within the project area are on public lands, we would expect the ephemeral streams to be relatively intact.

According to the Draft EIS, it appears that the 'function and value' of waters is based primarily on the presence of substantial stands of riparian vegetation (Page 3-78). However, it is our experience that ephemeral tributaries may naturally lack a distinct riparian corridor. The characteristic vegetation often consists of upland species either within the channel area or on the adjacent banks. We are concerned that the assessment of ephemeral tributaries contained in the Draft EIS inappropriately portrays the project-related impacts to waters.

Recommendation:

Revise Section 3.4.1.3 of the Draft EIS to more accurately describe the functional condition of the ephemeral streams within the project area using the information above. Update the project-related impacts to waters and describe additional mitigation associated with any increase in impacts to waters. Because the Santa Margarita River watershed includes riverine waters similar in landscape position to many of the ephemeral streams within the project area, it may be useful to refer to the Draft Operational Guidebook using the hydrogeomorphic approach (HGM) for the Santa Margarita River watershed, which includes models for 1st and 2nd order riverine waters. These models cover eleven different hydrologic, biogeochemical, plant community, and faunal support functions.

Compensatory Mitigation

There is insufficient information in the Draft EIS for EPA to determine if the proposed compensatory mitigation will fully offset unavoidable impacts to waters of the U.S. (40 CFR 230.10(d)). According to the Draft EIS, the applicant proposes to develop and implement a restoration plan for potential temporary and permanent disturbances of regionally sensitive vegetation communities at a 3:1 ratio. Estimated temporary and permanent impacts to the riparian communities are 8.3 and 12.9 acres, respectively, for a total of 21.2 acres (Table 3.4-4, Page 3-110). The Draft EIS lacks additional information relating to how, when, or where the 60+ acres of restoration will occur and what provisions will be made to ensure the protection of the resources in perpetuity. It is unclear if this restoration proposal is to occur at the Cleghorn property that has been identified for acquisition and preservation. (See additional comments below). The applicant also proposes to restore an additional 29.5-acre site within Cajon Creek as compensatory mitigation for impacts to aquatic habitat that supports threatened and endangered species. For the purposes of mitigating for unavoidable impacts to jurisdictional waters, the applicant proposes to mitigate unvegetated waters at a 1:1 acre ratio and vegetated waters at a 2:1 acre ratio (Page 4-2). The Draft EIS lacks any additional information other than a statement indicating that a compensatory mitigation plan shall be prepared and implemented consistent with ACOE guidance.

Recommendation:

Once the LEDPA is identified, develop a detailed mitigation plan to offset all unavoidable impacts to waters of the U.S. The mitigation plan should be consistent with the Regulatory Guidance Letter (RGL 02-2) and the mitigation guidelines and monitoring requirements established by the Corps Los Angeles District. The type(s) of mitigation (e.g., preservation, enhancement, restoration, creation) needs to be specifically identified and quantified. The mitigation plan should include sufficient information to document how the proposed mitigation will effectively replace lost acres and functions. To minimize the temporal loss of functions and the uncertainty regarding mitigation success, we recommend that the ACOE require an approved final mitigation plan prior to project authorization.

We request that EPA and the other resource and regulatory agencies be provided an opportunity to review and comment on the draft mitigation plan. The final mitigation plan should be included in the Final EIS and ROD.

Biological Resources

Wildlife Movement and Access Routes

EPA commends ACOE, United States Forest Service (USFS), and BNSF for incorporating information about wildlife movement corridors in the Draft EIS. The Cajon Pass is a critical junction for movement between the San Bernardino and San Gabriel Mountains. EPA is concerned, however, that consideration of the movement corridors identified on Figure 3-8 were not taken into consideration in the location of proposed staging areas depicted on Figure 2-1. Staging areas are often fenced to reduce the potential for theft and to reduce safety hazards and also create a barrier for wildlife movement. Staging Areas 1 and 2 appear to directly overlap known movement corridors, and Staging Area 3 is proximate to another movement corridor.

Recommendation:

In the Final EIS, change the location of proposed staging areas so that known wildlife movement corridors will not be blocked. If this is not feasible, include specific measures to alleviate the potential for blocking wildlife movement during the time the staging areas will be used (e.g. construct an additional wildlife ramps).

Removal of Tunnels

Both Action Alternatives propose the removal of two tunnels along the corridor. The Draft EIS does not provide an analysis demonstrating why the daylighting of the two tunnels is preferred over maintaining the existing tunnels. In light of the excess construction-related air impacts and noise impacts that will result from daylighting, the EIS should include the rationale for not including an analyzed alternative that maintains the existing tunnels.

Recommendations:

In the Final EIS, include an analysis of a modification to the existing alternatives that includes maintaining. Clearly identify the impacts that are directly related to removal, and non-removal, of tunnels in a comparative format. If there is a safety concern driving the decision to remove the tunnels, this should clearly be identified and described.

Coordination with other Rail Projects

Federal Railroad Administration (FRA) and DesertXpress are proposing a high speed train systems to connect southern California with Las Vegas, Nevada. The DesertXpress website states: *"The initial privately financed DesertXpress line could be extended over Cajon Pass into the Los Angeles basin, west through the Antelope Valley, or as otherwise needed to provide for connections with multiple transport options in the future, including the state of California's proposed high speed rail network which has a station planned in Palmdale, west of Victorville."* [http://www.desertxpress.com/future.php] While the DesertXpress is currently proposing Victorville as its southern terminus, EPA has requested that FRA and DesertXpress analyze an alternative through the Cajon Pass to increase connectivity to population centers further south of Victorville.

Recommendation:

The Final EIS should specifically discuss how construction and operation of the proposed project has been coordinated with the FRA regarding accommodating a potential future passenger rail network in the area. In addition, information and technical documents prepared for this project should be shared with FRA and DesertXpress so that the Draft EIS in preparation for that project can reflect the most updated information regarding feasibility of a rail corridor through Cajon Pass. Furthermore, we recommend that ACOE, USFS, BNSF, FRA, and DesertXpress discuss the potential timing and feasibility of both projects so that decision-makers are aware of the need to coordinate project implementation within Cajon Pass.

Mitigation

Demonstration of Mitigation Commitments

EPA commends ACOE, USFS, and BNSF for identifying the mitigation measures and environmental commitments in Chapter 4. However, the list does not consistently identify the timeframe and the responsible party for each action, so it is difficult to determine who will ultimately implement the measures and the length of time for their implementation. In addition, it is difficult to track measures and commitments. As indicated in Appendix D, a draft Mitigation Monitoring Plan and Table will be included in the Final EIS. EPA provides the following recommendations for drafting the Mitigation Monitoring Plan and Table.

Recommendation:

EPA recommends that ACOE, USFS, and BNSF present the appropriate mitigation and monitoring information in a table that more clearly identifies Who, What/How, When, and Where each mitigation measure will be implemented. In addition, the table should reference locations within the Final EIS where the information is discussed. Each measure listed in Section 4.1 through 4.9 of the Draft EIS, in addition to additional measures recommended through this letter and others received during public comment, should be presented with enough information to determine:

(1) Who will implement the mitigation measures,
(2) What is the mitigation measure and how will it be implemented,
(3) When will the measure be implemented,
(4) Where will each measure be implemented.

A June 10, 2005 memo from State of California Department of Transportation discussing an Environmental Commitment Record provides excellent examples of both a Mitigation Monitoring and Reporting Record and a Permits, Agreements, and Mitigation Form for tracking the completion of mitigation measures (See Attached). These forms can be found on http://www.dot.ca.gov/ser/guidance.htm

Cleghorn Property Acquisition

EPA commends BNSF on the commitment to purchase the 60 acres of land for conservation purposes. Chapter 3, Section 3.4.2 identifies the contribution to conservation funding efforts to secure a few remaining private parcels within Cajon Pass and adjacent to the SBNF property. The document states, "*The Applicants contribution is intended for use to ensure*

that needed wildlife linkages and functional connectivity will be maintained in the Cajon Pass to benefit a wide variety of plan and wildlife species, including those protection by state and federal ESA statures. To meet this objective, BNSF will make a monetary contribution toward the conservation of parcels totaling approximately 60 acres near the Cleghorn Road underpass." The document further states that this property is near a 29-acre site proposed for use as off-site mitigation for project-related impacts. Additional information related to this designation of conservation lands should be included in the text of the Final EIS to clarify the BNSF commitment.

Recommendations:

EPA recommends that the following information be included in the Final EIS:

- The location of the conservation lands to be purchased depicted on a map and included in Chapter 3.
- Identification of the land purchase/transfer process. (Who will ultimately own and manage the land?)
- Information regarding future management of the property (what uses will be allowed/disallowed, management goals, etc)
- Description of the resources on the property.
- Clarify the Cleghorn land purchase as a mitigation measure or environmental commitment in Chapter 4 of the document and in the yet-to-be-completed Mitigation Plan.

Section 3.4.2 of the document further states that the Cleghorn property is near a 29-acre site proposed for use as off-site mitigation for project-related impacts.

Recommendations:
In the Final EIS include:

- The location of the 29-acre site proposed for mitigation depicted on a map and included in Chapter 3.
- Identification of the resources on that property and a description of what impacts the purchase of the land will mitigate.
- Information regarding future management of the property (what uses will be allowed/disallowed, management goals, etc)

Noise Impacts

The Noise Impacts Technical Report identifies that several receptors will experience noise impacts and suggests mitigation measures to reduce the impacts from "severe". However, the Draft EIS does not identify these mitigation measures in Chapter 4, Mitigation Measures and Environmental Commitments. Because there is no information identifying specific operational mitigation commitments in Chapter 4, it appears that ACOE, USFS, and BNSF are only committing to implement mitigation measures to offset noise-related impacts resulting from construction. Section 5.1.1 of the Noise Technical Report states:

Path modifications using a noise barrier (soundwall or berm) would effectively decrease the overall noise exposure at the ST-1 and ST-2 areas. For ST-1, a six-feet-tall berm or wall between Main Track One and the residence would likely reduce noise to "no impact" but its feasibility and reasonableness would need to be evaluated during final engineering design of the project.

For ST-2, a six-feet-tall berm or wall between Main Track One and the represented residences would reduce the rail car-related noise contribution by approximately 5 dB, thereby reducing the overall noise exposure below Severe Impact levels. There appears to be sufficient space within the BNSF right-of-way to construct a berm or a soundwall. This would need to be confirmed during final engineering for the project. Because the current use at ST-2 is residential with several separate dwellings, approximately six receptors would be benefited by the mitigation measure. With a mitigation measure at ST-2, the project would not cause a Severe Impact at that location.

Recommendations:

For the impacts identified above, EPA recommends that ACOE, USFS, and BNSF commit to incorporating the mitigation measures in order to reduce operational impacts. The specific commitments should be carried through in Chapter 4, Mitigation Measures and Environmental Commitments, along with a timeframe for construction.

In Section 5.1.1, Pages 5-2 and 5-3 of the Noise Technical Report identifies that at locations ST-3, 4, 5, and 6, achieving substantial noise reduction would require sound barriers that would be very tall (greater than 12-feet-high in order to block the line-of-sight to locomotives using the existing BNSF tracks) and very long (some approximately 800 feet long), so a "Severe Impact" would remain at these residences without further mitigation.

Recommendations:

ACOE, USFS, and BNSF should commit to determining if there are smaller areas that could be delineated around the remaining residences to construct a feasible and reasonable barrier that does not need to be 800 feet long. In addition, ACOE, USFS, and BNSF should specifically inspect each dwelling to determine feasibility of incorporating noise reduction features into each affected structure, as recommended on page 5-3 of the Noise Technical Report. Include in the Final EIS Mitigation Measures and Environmental Commitments, the specific mitigation measures that ACOE, USFS, and BNSF are committing to and quantify the noise impacts reduction associated with each mitigation measure. Also, include in the Final EIS designation of "noise easements" considered in exchange for any acoustical upgrades. If no mitigation commitments are identified, the Final EIS should identify the exact number of residences that will be impacted along with the estimated noise impact events that will result from the proposed action.

Regional and National Context

Goods Movement in the Region

The Draft EIS should identify how this project is part of a greater solution to addressing goods movement in the region. In particular, the Final EIS should describe what additional

"third-tracking" of BNSF is completed, planned, or anticipated as a reasonably foreseeable future action in Southern California and adjoining states and the timeframe for additional rail development.

Consistency with draft "US DOT Framework for a National Freight Policy"

To bring together public and private stakeholders around a common vision, the U.S. Department of Transportation proposed a draft "Framework for a National Freight Policy". The framework lays out a vision and objectives, then details strategies and tactics that the Department and its partners - both public and private sector - can pursue to achieve those objectives. The Vision statement for the Framework is: "*The United States freight transportation system will ensure the efficient, reliable, safe and secure movement of goods and support the nation's economic growth while* ***improving environmental quality*** [emphasis added]."

The Framework includes the following applicable Objectives, Strategies, and Tactics:

Objective 7. Mitigate and better manage the environmental, health, energy, and community impacts of freight transportation.

- *Strategy 7.1. Pursue pollution reduction technologies and operations.*

- Tactic 7.1.1. Promote idle reduction opportunities.
- Tactic 7.1.2. Pursue new diesel technologies.
- Tactic 7.1.3. Enact noise reduction strategies.

- *Strategy 7.2. Pursue investments to mitigate environmental, health, and community transportation impacts.*

- Tactic 7.2.1. Create noise buffers.
- Tactic 7.2.2. Create green space buffers.
- Tactic 7.2.3. Pursue grade separations and rail relocation strategies.
- Tactic 7.2.4. Promote best-in-class urban design to better integrate freight facilities into surrounding communities.

- *Strategy 7.4. Prevent introduction of or control invasive species.*

Recommendation:

- Identify how this goods movement project is meeting the objectives, goals and tactics of the draft Framework for a National Freight Policy.
- Include additional project design changes and mitigation commitments where feasible consistent with the policy.