

1.0 Purpose and Need

1.1 INTRODUCTION

This Final EIS addresses the proposal by DesertXpress Enterprises, LLC, (Applicant or DesertXpress) to construct and operate a high-speed passenger railroad between Victorville, California, and Las Vegas, Nevada (the proposed action). The Federal Railroad Administration (FRA) is the lead agency for the environmental review process for the DesertXpress High-Speed Passenger Train project. The Applicant will secure financing and own the system and be responsible for the **project's development, construction, operation, and maintenance**. Approvals by several federal agencies, including the FRA, Bureau of Land Management (BLM), Surface Transportation Board (STB), Federal Highway Administration (FHWA), and the National Park Service (NPS) would be necessary to implement the project, including the granting of permission to use public lands and/or highway rights-of-way (ROW).

The FRA has authority to regulate the safety of railroads, including the proposed project under 49 United States Code (U.S.C.) 20101 et seq. FRA also manages financial assistance programs for rail capital investments, for which this project would likely be eligible. The BLM has approval authority over the use of public lands under their control under 43 U.S.C. 1761, the Federal Land Policy and Management Act (FLPMA). The FHWA has jurisdiction over the use of and/or modification of Interstate highway right of way under 23 Code of Federal Regulations (CFR) 1.23. The NPS has authority over the management and use of the Mojave National Preserve under 16 U.S.C. 2.

The STB is an independent federal agency with broad authority under the Interstate Commerce Act over matters related to the regulatory oversight of transportation by rail carriers provided as part of the interstate rail network, 49 U.S.C. 10501. The STB has jurisdiction over the construction and operation of new rail lines pursuant to 49 U.S.C. 10501(b). **The STB's jurisdiction over rail transportation is exclusive, expressly**

preempting other requirements under federal or state law. The reach of federal preemption in this case is discussed in **Section 1.4, Major Authorizing Laws and Regulations**, below.¹

This Final EIS has been prepared to satisfy the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.), and Council on Environmental Quality (CEQ) NEPA regulations (40 CFR 1500-1508). This Final EIS is being prepared by the FRA in cooperation with STB, BLM, FHWA, and NPS. The California Department of Transportation (Caltrans) and the Nevada Department of Transportation (NDOT) are also participating in evaluating the DesertXpress proposal.

This chapter of this Final EIS describes the purpose and need for high-speed interstate passenger rail transportation between southern California and Las Vegas, Nevada. The purpose and need provides the basis for evaluating and comparing alternatives, and is one of the factors considered in selecting a preferred alternative. In addition to the purpose and need for the project, this chapter identifies major authorizing laws and regulations, discusses the relationship of the proposal to statutes, regulations, policies, programs and plans, and lists federal permits, licenses, and other requirements for project implementation. **Figure F-1-1** shows an overview map of the proposed project.

1.2 PURPOSE OF THE PROPOSED PROJECT

The purpose of the privately proposed project is to provide reliable and safe passenger rail transportation using proven high-speed rail technology between southern California (Victorville) and Las Vegas that is a convenient alternative to automobile travel on the Interstate-15 (I-15) freeway, or air travel to and from Las Vegas, and that adds transportation capacity in the I-15 corridor.

1.2.1 RELIABLE, SAFE, CONVENIENT MODE OF TRAVEL USING PROVEN HIGH SPEED RAIL TECHNOLOGY

Depending on the selected alignment, DesertXpress would extend approximately 183 to 200 miles on a new, high-speed double track with no at-grade crossings, providing trains departing both ends of the line at least hourly and as frequently as every 20 minutes on Fridays and Sundays. DesertXpress would travel at speeds up to 150 miles per hour (mph). The 183- to 200-mile trip would take between 1 hour and 40 minutes and 2 hours depending on the selected technology, and would operate every day of the year. The trains

¹ STB's preemption authority precludes any requirement for an environmental review under the California Environmental Quality Act (CEQA). However, this document includes environmental analyses that would also satisfy CEQA requirements. Moreover, CEQA-related noticing procedures have been followed, including issuance of a Notice of Preparation to the California State Clearinghouse in July 2006.

would be based on proven high-speed train technology used in Europe and customized for the unique setting of the high desert. Each car would be self-propelled to provide the high power-to-weight ratio needed to follow the alignment and negotiate its relatively steep grades as it travels through two desert mountain passes.

1.2.2 INCREASING THE CAPACITY OF THE I-15 CORRIDOR

In its 2006 Regional Transportation Improvement Program (RTIP), the Southern California Association of Governments (SCAG) has programmed funding for several projects within and/or near the study corridor that will increase capacity and improve operation of I-15.² The construction and operation of DesertXpress trains would further increase capacity and improve operation of the I-15 corridor, potentially reducing the need for programmed and/or planned but unfunded improvements.

As originally conceived by the Applicant, the DesertXpress train tracks would utilize, to the extent feasible, existing highway and railroad ROW along the corridor to avoid impacting relatively undisturbed lands and the associated environmental costs while also reducing the need for property acquisitions. The approximate 60-foot ROW width required for the project would be narrower than the width of additional highway lanes that would be needed to carry a comparable number of people in automobiles on the I-15 corridor.

DesertXpress commissioned a ridership study in 2005, which was independently reviewed by qualified specialists under the exclusive direction of the FRA. The original study and **FRA's review are included in** this Final EIS as **Appendix F-D**. Also refer to **Section 2.2.2** for a discussion of the DesertXpress ridership projections.

The **Applicant's study incorporated a comprehensive** travel demand model that divided the southern California area into zones (by postal zip codes), computed travel times and costs from those zones for the automobile and air travel modes, and then compared those modes to the time and cost of DesertXpress. The study also utilized an internet-based stated preference survey of selected southern California residents (carried out in July 2005) to estimate how many existing auto and air trips to Las Vegas could potentially be diverted to DesertXpress. According to the study, the projected travel demand from southern California to Las Vegas in the year 2012 will be 18.2 million trips.

² I-15 capacity and/or operational improvements programmed in SCAG's 2006 RTIP are identified below:

- Barstow: new interchange at I-15 at Old Route State Route 58 (SR 58);
- Near Baker, from 5.9 km north of Afton Road to 2.3 km south of Basin Road: add truck climbing lane

For a comprehensive list of anticipated capacity improvements in the project area, see Section 2.0 of the Traffic Impact Study, included as **Appendix F-G**.

The **Applicant's study** assessed the sensitivity of high-speed train ridership to various fare levels, travel time, and service frequency. Ridership was also projected based on the use of either diesel or electric train technology options. The electric train set would employ longer and wider trains with significantly greater passenger capacity than the diesel train set. As shown in the ridership review and original ridership study, DesertXpress could divert 20-25 percent of private automobile trips from I-15, and would have a passenger capacity at least equal to a full freeway lane.

During a typical peak hour in its first full year of operation, DesertXpress would carry approximately 1,350 passengers. Over time, as passenger demand increases, DesertXpress would have the capacity to operate trains as frequently as every five minutes in each direction, thereby achieving a peak hour capacity of approximately 5,000 passengers per hour per direction, which is roughly equivalent to two lanes of freeway traffic. With this capacity, the DesertXpress project could potentially reduce the need to expand I-15, thus allowing Caltrans and NDOT to defer major expansion of I-15 and allocate future funding instead to other highway and transportation improvements in the two states.

As further detailed in **Section 2.3.1** of this Final EIS, various freeway improvements are projected for the I-15 corridor by the year 2030. These improvements are intended to accommodate projected growth in the southern California and Las Vegas regions. However, even with these proposed improvements, future operating conditions of the freeway mainlines are expected to be at unacceptable levels of service.

The DesertXpress project would also maximize transit and ground transportation connections at the proposed station alternatives and would provide adequate parking facilities to accommodate peak capacity per the ridership projections.

The **Applicant's study also states that DesertXpress** is expected to divert an estimated 3.04 million annual auto trips from I-15, reducing auto emissions and saving fuel. Increased demand for DesertXpress would be accommodated by adding more trains as demand increases. DesertXpress would have the capacity to quadruple its projected initial ridership over roughly a 30-year period.

The ridership review conducted for FRA examined and evaluated the methodologies employed in the **Applicant's** ridership study. The ridership review noted that numerous factors could alter the findings of the ridership study in both positive and negative directions. Following consideration of all of these factors and their relative potential to alter the findings, **FRA's ridership review** adjusted downwards by a factor of 10 percent the passengers forecast in the **Applicant's study**. **These adjusted numbers are utilized in this Final EIS.**

1.3 NEED FOR THE PROPOSED PROJECT

The need for a high-speed rail service stems from several factors: high and increasing travel demand amidst lagging capacity on the I-15 corridor and constraints to expansion of air travel, and frequent accidents in the I-15 corridor.

1.3.1 TRAVEL DEMAND AND CAPACITY CONSTRAINTS

The rapid increase in travel demand between southern California and Las Vegas, coupled with the growth in population in the areas surrounding Victorville, Barstow, and Las Vegas, has placed increasing pressures on the highways and airports serving the region. For example, for the highway segment between Victorville and Barstow, the Average Daily Traffic (ADT) on I-15 grew from 50,000 to 60,000 between 1998 and 2005 and is estimated to increase to 75,000 by 2015 and to 100,000 by 2025.³

The 2005 ridership study estimated that one-third of the 38 million annual Las Vegas visitors and business travelers come from southern California, and an estimated 72 percent of them drive to Las Vegas on I-15.⁴ In 2005, the total average person trips on a Friday to Las Vegas from California was 56,700 trips, which generates an estimated annual volume of 11.77 million passenger trips by automobile. In addition, the ridership study estimates that there are 1.57 million annual trips by air and 0.9 million by bus.⁵ Travel delays on I-15 during peak days (Friday and Sunday) range from 0.5 to 1.25 hours or more. As the only roadway directly linking metropolitan southern California to Las Vegas, I-15 conditions are often congested.

Typical lane capacity for home-to-work commuter traffic on a freeway is between 1,600 to 2,000 cars per hour or higher under ideal conditions, which assumes 100 percent automobile traffic on flat terrain, with no trucks, buses, or slower recreational vehicles. However, I-15 is also a major truck route with steep grades—Caltrans reports 15 percent of the average daily traffic on I-15 between Victorville and Barstow as truck traffic—and is also a popular recreational vehicle route. This diversity of traffic and terrain leads to greater speed differentials, more space occupied per vehicle, and larger gaps between vehicles than normal commuter traffic. These factors lead to decreased lane capacity of below 1,600 vehicles per hour per lane.

³ Initial Study/Environmental Assessment, Victorville to Barstow-Add Southbound Mixed-Flow Lane, Caltrans, FHWA, County of San Bernardino, May 2001.

⁴ URS Corporation, 2005.

⁵ The 2004 air travel estimate is derived from commercial travel originating at one of the five major Los Angeles metropolitan area passenger airports: Los Angeles International Airport (LAX), Bob Hope Airport (BUR), John Wayne/Orange County Airport (SNA), LA/Ontario International Airport (ONT), and Long Beach Airport (LGB). Air travel from San Diego International Airport (SAN) is not included in the estimate.

Under free flow travel conditions, the trip on I-15 from Victorville to Las Vegas is 192 miles and takes about 3 hours to drive if driving at a constant, posted speed limit. Because of the estimated annual volume of passenger trips made by automobiles and the two-lanes per direction capacity of I-15 over the majority of its length, congestion is a growing and serious problem.

The single worst hour to drive from Las Vegas to southern California is Sunday at 2 PM. The Traffic Impact Analysis (TIA) and Ridership and Revenue Study prepared for the DesertXpress project estimated that the congestion delay on I-15 will grow from 1.25 hours in the summer of 2002 to 3.19 hours in 2012, to 7.03 hours in 2022, and to 5.78 hours in 2032, even with planned improvements in place.⁶ These studies also assume that drivers will not modify their travel pattern or departure time. These studies further conclude that by the summer of 2022, 78 percent of the drivers will find the congestion delay intolerable on Sunday and will leave a day earlier (or not travel at all). In California, with no funds currently programmed by Caltrans to widen this aging highway over the majority of its length (which has only two general traffic lanes in each direction in most places), the situation can be expected to worsen in the future.

On the Nevada side, between Primm and Las Vegas, the I-15 freeway experienced a 31.5 percent increase in vehicle volumes in each direction for the ten year period between 1993 and 2003. Were there no capacity constraints, current estimates are that 52 million vehicle trips would be traversing this corridor annually by the year 2015; however, the highways serving this market have an estimated annual capacity of only 38 million.

Air travel between southern California and Las Vegas is also constrained, which causes travel delays and inconvenience to both business and leisure travelers. Major commercial Airports in the Los Angeles Metropolitan area, Los Angeles International Airport (LAX), John Wayne Airport (SNA), Long Beach Airport (LGB) and Bob Hope Airport (BUR), are located within densely populated urban areas, where the ability to expand runways and/or airport facilities has been severely limited for more than two decades. Los Angeles World Airports (LAWA), which operates both LAX and LA/Ontario International Airport (ONT), has focused recent expansion efforts on new facilities at the Palmdale Airport in northern Los Angeles County. The SCAG has proposed a rail link from LAX to Palmdale as a means of easing congestion at LAX. SNA is adding six additional gates as part of an airport expansion project. However, SNA will continue to operate within a stringent aircraft noise abatement area, which strictly regulates take off and landing protocols, while also limiting airport hours of operation. The number of daily flights at LGB is fixed by the City of Long Beach's noise ordinance. In 2009, work began on a new passenger terminal, but rather than increase the capacity of this airport, the work is proposed to relocate currently

⁶ DMJM Harris|AECOM, Traffic Impact Analysis Draft Final Report, February 2009. URS, DesertXpress Updated Ridership and Revenue Study Draft Final Report, December 2005.

outdoor passenger gate areas to enclosed spaces. Potential expansions at BUR have been set aside in the face of strong local opposition and insufficient distance between runways and the present passenger terminal.

In the Las Vegas area, McCarran International Airport (LAS) accommodated about 48 million passengers in 2007. The Clark County Department of Aviation (CCDOA) has planned for the further expansion of LAS to accommodate increased demand, including the opening of additional gates in the D-Concourse and construction of Terminal 3. These improvements would increase the practical capacity of the airport to 53 million passengers, which is about 10 percent greater than actual capacity experienced in 2007. CCDOA anticipates that LAS will reach its practical capacity by 2017. While some general aviation flights are accommodated at nearby North Las Vegas Airport, LAS is the only large commercial airport that serves Las Vegas. LAS is surrounded on all sides by development, making significant expansion of the airfield much more difficult and impedes capacity expansion. CCDOA is thus proposing to construct the Ivanpah Valley Airport (also known as the Southern Nevada Supplemental Airport (SNSA), as a supplemental commercial service airport. The airport is proposed to be built in the Ivanpah Valley, approximately 30 miles south of Las Vegas between Jean and Primm. A subsequent act of Congress in 2002 established a 2,640 foot wide corridor between the Las Vegas Valley and the proposed Ivanpah Airport, in which to-be-determined transportation and utility infrastructure could be located.⁷ As of 2010, CCDOA has reduced its level of effort on planning the SNSA. Accordingly, the Federal Aviation Administration (FAA) suspended environmental work on the SNSA without identifying a date certain at which work would resume.⁸

In addition to personal automobile and air travel between southern California and Las Vegas, both public and private bus transportation is also available. In regards to public bus transportation, the Greyhound Bus Line serves areas throughout southern California and provides both direct and stopover service between southern California and Las Vegas, including stops in Victorville and Barstow. Private charter buses also provide transportation between southern California and Las Vegas. While these charter buses are privately rented, they provide service for groups of individuals traveling to and from southern California and Las Vegas. These bus services would, however, experience similar traffic congestion as the private automobiles, as I-15 would remain the primary route for service.

⁷ Title V, Section 501(b), Clark County Conservation of Public Land and Natural Resources Act of 2002, Public Law 107-282, enacted November 6, 2002.

⁸ Accessed at <<http://www.snvairsteils.com/>> on January 21, 2011

Additional surface passenger transportation capacity between Victorville and Las Vegas is needed and the project would provide capacity and would add connections between different transportation modes.

The DesertXpress project would pass by the site of the SNSA, allowing for a potential airport rail link to be constructed.⁹ To serve the proposed SNSA in the future, DesertXpress would need to construct a spur track off the mainline into the terminal area and operate trains dedicated to airport service directly from the new airport to Las Vegas over the mainline DesertXpress tracks. The Applicant, airport officials, and Clark County may consider this possibility at some future date.¹⁰

The project would also be in close proximity to the Las Vegas Monorail, which could be extended by the Las Vegas Monorail Company to the proposed DesertXpress Las Vegas station to provide a direct connection to visitor attractions and destinations in Las Vegas. No connection to the Las Vegas Monorail is proposed as part of the project and therefore is not evaluated in this Final EIS.

The project could also be extended in the future to Palmdale, California (about 50 miles west of Victorville) to connect to the planned state-wide California High Speed Train System. Finally, the project could be connected to the Los Angeles Basin initially by extending Metrolink Commuter Rail service from its present terminus in the City of San Bernardino to Victorville, or alternatively, DesertXpress itself could be extended to Ontario International Airport, San Bernardino station, and/or other communities in the Los Angeles Basin. These future connections are not proposed as part of the project and are therefore not evaluated in this Final EIS.

1.3.2 SAFETY

Alternatives to automobile travel would likely provide improved safety conditions in the I-15 corridor.

⁹ Construction of a link to the proposed Southern Nevada Supplemental Airport is not part of the current DesertXpress proposal and is not evaluated in this EIS. Construction and operations of such a link would require separate environmental review. In addition, as discussed above, the environmental review for the SNSA is currently suspended without any date identified for the resumption of work.

¹⁰ Studies of the economic viability of the DesertXpress Project do not incorporate or rely upon an airport shuttle or other forms of transportation linking to the proposed Ivanpah Valley Airport.

On a national level, comparing miles traveled via commercial aircraft, train, and automobiles on highways, auto travel on highways has by far the highest rate of passenger fatalities per mile traveled. For the years 2000 through 2005, the average rate of passenger fatalities per 100 million miles traveled by highway was more than 25 times the comparable rate for travel by air and rail.¹¹

By reducing the number of automobiles on I-15, the project could potentially reduce the accident rate thus improving traffic safety. Along the California portion of the I-15 corridor between 2003 and 2005, the fatal accident rate has exceeded statewide averages for highway facilities, particularly for the portion of I-15 between Barstow and the Nevada state line.¹² Given the relatively low resident population in this portion of the corridor, the data suggest that a disproportionate number of fatalities are related to longer-distance travel between southern California and the Las Vegas Area. Since the publication of the Draft EIS and Supplemental Draft EIS, FHWA's further review of more recent I-15 corridor crash data confirms that these trends continue.

In Nevada, traffic accident data gathered from 2003 through 2006 suggests that congestion is a key factor in the number and type of accidents. In the stretch of I-15 between the Nevada state line and Spring Mountain Road, nearly 50 percent of the traffic accidents in between 2003 and 2006 were rear-end collisions. Congestion can be a key factor in increasing the rate of rear-end collisions. On a more lightly traveled freeway, a vehicle would more likely pass another rather than follow too closely.¹³

1.4 MAJOR AUTHORIZING LAWS AND REGULATIONS

Several laws are pertinent to the proposed project.

Under 49 U.S.C. 20101 et seq., the FRA has authority over the safety of railroads. Under 45 U.S.C. 821 et seq., the Secretary of Transportation has authority to provide direct loans and loan guarantees to State and local governments, government sponsored authorities and corporations, railroads, and joint ventures that include at least one railroad. The Secretary's authority has been delegated to the FRA. Additionally, under 49 U.S.C. 24402, the FRA has authority to administer grants for capital investment grants to support intercity passenger rail service.

¹¹ Air: Internet site www.nts.gov/aviation (April 2007). Bureau of Transportation Statistics, Internet site http://www.bts.gov/xml/air_traffic/src/datadisp.xml (April 2007).

Highway: Fatality Analysis Reporting System (FARS), National Center for Statistics Analysis (April 2007). 1975-2004: Ibid, *Traffic Safety Facts 2004*, DOT HS 809 775 (Washington, DC: 2005), table 4, Internet site <http://www-nrd.nhtsa.dot.gov/pdf/nrd-30/NCSA/TSFAnn/TSF2003F.pdf> (February 16, 2006).

Railroad: Federal Railroad Administration, Office of Safety Analysis, Internet site <http://safetydata.fra.dot.gov> (March 2007).

¹² Korve Engineering, 2006.

¹³ Korve Engineering, 2006.

Under 42 U.S.C. 4601 et. seq., if federal assistance is provided to a project, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and its implementing regulations detailed in 49 CFR Part 24 will apply.

Under 43 U.S.C. 1761 (FLPMA), the BLM has approval authority over rights-of-way and use of public lands under their control, including for rail transportation purposes, as outlined under the ROW regulations at 43 CFR 2801.9 et seq.

Under 49 U.S.C. 10901, the STB has jurisdiction over the construction and operation of new rail lines.

Under 23 U.S.C. 111, for the portions of the proposed rail line that would be within the existing highway ROW under the jurisdiction of FHWA, the implementing regulations in 23 CFR 1.23 provide FHWA authority over approval of temporary or permanent occupancy or use within the boundaries of federal-aid highways.

1.4.1 PERMITS, LICENSES AND OTHER REGULATORY REQUIREMENTS

The federal agencies responsible for approval of the project may be responding to multiple needs based on their mandates, but the purpose is consistent across all federal agencies. Approvals by the FRA, BLM, STB, and FHWA would be necessary to implement the project. The construction and operation of the project will be entirely permitted through federal and state agencies.

The proponents of the project, under the guidance of the FRA, will also be responsible for the following permits:

- Encroachment permits from Caltrans and NDOT to ensure minimal impacts to the operation of I-15;
- Procuring a Section 404 permit from the U. S. Army Corps of Engineers (USACE) to ensure compliance with the Clean Water Act (see **Section 1.4.1.1** below);
- Procuring a Section 401 Certification through the California Regional Water Quality Control Boards and Nevada Division of Environmental Protection to ensure compliance with the Clean Water Act (see **Section 1.4.1.1** below); and
- Section 7 Consultation with the U.S. Fish and Wildlife Service (USFWS) service to satisfy Endangered Species Act (ESA) Requirements.¹⁴

¹⁴ The USFWS received the Draft Biological Assessment (BA) for the DesertXpress project on August 17, 2010 as part of the Section 7 Consultation Process. A revised BA was submitted on December 16, 2010. A Biological Opinion is expected by April 30, 2011.

These permits will be obtained following the issuance Record of Decision (ROD) in accordance with the procedures and policies of the issuing agencies. In addition to the necessary permits, the Applicant will be required to assist with compliance of additional regulations, such as:

- Carrying out the mitigation measures and commitments described in the Biological Opinion resulting from Section 7 Consultation.
- Carrying out the terms of the Programmatic Agreement to satisfy Section 106 of the National Historic Preservation Act (see **Section 3.7, Cultural and Paleontological Resources**, of this Final EIS).

1.4.1.1 U.S. Army Corps of Engineers

Concurrently with the NEPA process, the Applicant initiated the Clean Water Act (CWA) Section 404 permitting process with the USACE in May 2010. The CWA Section 404 established a program to regulate the discharge of dredged or fill material into waters of the US, including wetlands. As part of this CWA Section 404 permitting process, the Applicant prepared two formal jurisdictional delineation reports for the Ivanpah Valley area and the Las Vegas watershed (see **Section 3.8, Hydrology and Water Quality**, of this Final EIS). Jurisdictional determination and issuance of a permit for the discharge of fill material into waters of the US associated with construction of the DesertXpress project will be part of the CWA Section 404 permit process administered by the USACE.

In addition to the CWA Section 404 permit, the Applicant will apply for certification under Section 401 of the CWA.¹⁵ Section 401 Certification is administered in California through the Regional Water Quality Control Boards (in the case of the DesertXpress project the Lahontan Regional Water Quality Control Board) and in Nevada by the Nevada Division of Environmental Protection. Issuance of the CWA Section 404 permit by the USACE, and Section 401 Certification, are anticipated to follow issuance of the Record of Decision on the project by the Cooperating Agencies.

1.4.1.2 STB Preemption Authority

In response to a request for a declaratory order filed by DesertXpress, STB issued a decision in DesertXpress Enterprises, LLC-Petition for Declaratory Order, STB Finance Docket No. 34914 (STB served June 27, 2007) (June 2007 Dec. Order) stating that the project would not be subject to state and local environmental review, land use, or to other permitting requirements. STB determined that DesertXpress would first be required to

¹⁵ Under federal CWA Section 401, every applicant for a federal permit or license for any activity which may result in a discharge to a water body must obtain State Water Quality Certification (Certification) that the proposed activity will comply with state water quality standards. Most Certifications are issued in connection with USACE CWA Section 404 permits for dredge and fill discharge.

file an application under 49 U.S.C. 10901 for STB authority to build and operate the new line. DesertXpress intends to file this application when this environmental review has been completed.

In its June 2007 Dec. Order, STB concluded that construction and operation of **DesertXpress'** planned interstate passenger rail line would **be within the agency's** jurisdiction under Section 10501 because DesertXpress would be a rail carrier providing interstate common carrier rail transportation. Accordingly, STB found that the broad preemption at 49 U.S.C. 10501 (b) would attach, and environmental review would be under NEPA and related federal environmental laws instead of the individual laws and regulations of California and Nevada, such as the California Environmental Quality Act (CEQA).¹⁶

STB also concluded that the federal preemption provision contained in 49 U.S.C. 10501(b), as broadened by the Interstate Commerce Commission Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (1995) (ICCTA), shields railroad operations that are **subject to the STB's jurisdiction from the application of most state and locals laws.**¹⁷ **Section 10501(b) expressly provides that the "jurisdiction of the STB over transportation by rail carriers" over any track that is part of the interstate rail network "is exclusive."** Section 10501(b) also expressly provides that the remedies provided under 49 U.S.C. 10101-11908 are exclusive and preempt the remedies provided under state law. However, the broad Section 10501(b) preemption is not limitless, and, under Section 10501, STB and the courts have construed Section 10501(b) to harmonize it to the extent possible with

¹⁶ Although the DesertXpress project does not require a CEQA review, the EIS includes the type of analysis that would have been conducted under the regulations and guidance of CEQA. See City of Auburn, 154 F.3d at 1031 31 (9th Cir. 1998) (City of Auburn). Moreover, state and local agencies and concerned citizens have had ample opportunity to participate in the ongoing EIS process. A number of state agencies have participated in the ongoing EIS process, including Caltrans and NDOT.

¹⁷ STB explained in its June 2007 Dec. Order that courts have found two broad categories of state and local actions to be preempted regardless of the context or rationale for the action: any form of state or local permitting or preclearance that, by its nature, could be used to deny the railroad the ability to conduct its operations or to proceed with activities that the Board has authorized, and state or local regulation of matters directly regulated by the Board (such as the construction, operation, and abandonment of rail lines). Otherwise the Section 10501(b) preemption analysis requires a factual assessment of whether a particular action would have the effect of preventing or unreasonably interfering with railroad transportation. See, e.g., City of Auburn v. STB, 154 F.3d 1025, 1029-31 (9th Cir. 1998) (City of Auburn) (state and local environmental and land use permitting are preempted); Joint Petition for Declaratory Order—Boston and Maine Corporation and Town of Ayer, MA, STB Finance Docket No. 33971 (STB served May 1, 2001), aff'd, Boston & Maine Corp. v. Town of Ayer, 206 F. Supp. 2d 128 (D. Mass. 2002) (state and local permit requirements and environmental review of construction and operation of railroad intermodal facility preempted). Moreover, the courts and STB **have explained that the states' police powers** are not preempted by Section 10501(b) so long as their actions do not unreasonably burden interstate commerce or interfere with railroad operations. Thus, for example, railroads may be required to comply with some health and safety rules, such as fire and electric codes, and inspections. Flynn v. Burlington N. Santa Fe Corp., 98 F. Supp. 2d 1189-90 (E.D. Wash. 2000).

other federal statutes, including federal environmental statutes, such as NEPA, the Clean Air Act, and the Clean Water Act, as well as the National Historic Preservation Act (NHPA), and the regulation of railroad safety under the Federal Railroad Safety Act.

Subsequent to the March 2009 publication of the Draft EIS, the California-Nevada Super Speed Train Commission and the American Magline Group asked the STB to reopen and reverse the June 2007 Dec. Order. STB held an oral hearing on the matter in October 2009. In a decision issued on May 6, 2010, STB reaffirmed its 2007 decision that the **DesertXpress project falls within STB's jurisdiction and would require Board authority** under U.S.C. 10901.

Table F-1-1 identifies the required permits and approvals.

Table F-1-1 Federal Permits or Approvals Anticipated for Action Alternatives

Agency	Permit/Approval
Federal Railroad Administration	Safety Waiver or Rule of Particular Applicability
Bureau of Land Management	Right-of-Way*
Surface Transportation Board	Authority to Construct and Operate Railroad
Federal Highway Administration	Concurrence for Highway ROW Occupancy and/or Disposal Access Justification Report or Access Modification Report ¹⁸ Concurrence on Project Design Elements Related to Highway Operations
U.S. Army Corps of Engineers	Sec. 404 Permit (waters of the U.S.) Sec. 401 Certification
U.S. Fish and Wildlife Service	Section 7 Biological Opinion

Note: *The BLM can only grant this right of way if it can conclude, in consultation with FHWA, that the project would not interfere with highway operation purposes.

Source: CirclePoint, 2010.

In addition to these federal agencies, the FRA also consulted with the Native American Heritage Commission and the Advisory Council on Historic Preservation. Separately, the FRA, in cooperation with BLM, engaged in formal government-to-government consultation with representatives of Native American tribes (sovereign nations) in the region of the project area, including face-to-face meetings between tribal representatives and FRA decision makers.

¹⁸ The current project design does not include creating new access points to the interstate freeway (I-15), nor is direct access to the I-15 freeway envisioned during construction or rail operations maintenance. However if project designs or plans change to require permanent access modifications to I-15 or temporary direct access for construction, approval of an Access Modification Report would be required.

As noted, the project is exempt from state and local land use and environmental laws. However, the FRA and Cooperating Agencies consulted extensively with state and local entities in the project area during development of the Draft EIS, as illustrated in **Table F-1-2**. Detailed information about coordination and consultation can be found in **Chapter 4.0, Comments and Coordination**.

Table F-1-2 Federal, State, Regional, and Local Agencies Consulted in EIS Process

Type of Agency	Agency
Federal Resource Agencies	Environmental Protection Agency (EPA) U.S. Army Corps of Engineers (USACE) U.S. Fish and Wildlife Service (USFWS) Federal Aviation Administration (FAA)
State Environmental Resource Agencies	California Department of Fish and Game (CDFG); Nevada Department of Wildlife; California Air Resources Board (CARB); South Coast Air Quality Management District (AQMD); Nevada Department of Environmental Quality; California Regional Water Quality Control Board, Lahontan Region
Historic Resources Agencies	State Historic Preservation Officers in California and Nevada
Transportation Agencies	California Department of Transportation (Caltrans); Nevada Department of Transportation (NDOT); Regional Transportation Commission of Southern Nevada (RTC)
Councils of Governments	Southern California Association of Governments (SCAG); San Bernardino County Associated Governments (SANBAG)
State and Local Governments	City of Victorville, City of Barstow, City of Las Vegas, San Bernardino County, Clark County

Source: CirclePoint, 2010.

Portions of the project that propose to utilize rights-of-way owned by private railroads would require the Applicant to obtain easements or agreements with the railroads to construct and operate the railroad in such rights-of-way. Portions of Segments 1A would utilize a ROW owned by the Burlington Northern Santa Fe Railroad (BNSF); portions of Option C within Segments 6 and 7 would be constructed within a corridor owned by the Union Pacific Railroad (UPRR). The use of any private railroad ROW would be subject to approval by owner railroads. STB approval of the project would not convey the authority to force any private railroad to sell, lease, or otherwise allow DesertXpress to use the ROW of an existing railroad.

1.5 RELATIONSHIP TO OTHER FEDERAL AGENCY POLICIES, PLANS, AND PROGRAMS

1.5.1 FEDERAL RAILROAD ADMINISTRATION

The proposed project would use trains and other features that do not comply with current FRA safety regulations, including track and locomotive safety regulations. However, this inconsistency with the FRA safety regulations would be made consistent through promulgation of a rule of particular applicability or a waiver process that would set safety standards specifically for the project. As such, the DesertXpress project would not establish an adverse safety condition.

The FRA is lead Federal agency for the environmental review of other high-speed ground transportation proposals in the project area and in southern California. While FRA has provided funding to other passenger rail projects in California and Nevada, no construction funding has been committed to any high-speed ground transportation project that could conflict with the project. While there is no Amtrak service that exists along the entire corridor, the Southwest Chief Amtrak route between Los Angeles and Chicago indirectly serves the project corridor between Victorville and Barstow.

In addition, DesertXpress may become eligible for federal funds through the Railroad Rehabilitation and Improvement Financing Program (RRIF), which is administered by FRA. The RRIF program was established by the Transportation Equality Act for the 21st Century (TEA-21) and amended by the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) and the Rail Safety Improvement Act of 2008. Under this program, the FRA Administrator is authorized to provide, in the aggregate, direct loans and loan guarantees up to \$35 billion. In general, RRIF funds may be used to (1) acquire, improve or rehabilitate intermodal or rail equipment or facilities including track, bridges, yards, building and shops, (2) refinance eligible debt, and (3) develop new intermodal or railroad facilities.

When an applicant applies for a RRIF loan, numerous preconditions to the issuance of the loan must be met. These include completion of the NEPA process and a determination that the applicant is eligible for financial assistance. Should DesertXpress receive financial assistance through a RRIF loan, it would be required to comply with various Federal laws including compliance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act) (42 U.S.C. 61) and its implementing regulations.

1.5.2 BUREAU OF LAND MANAGEMENT

The FLPMA governs the way in which the public lands administered by the BLM are managed. The FLPMA recognizes the value of the public lands, declaring that these lands would remain in public ownership. As stated in Title V, Section 501 of the FLPMA,¹⁹ **“the Secretary, with respect to public lands...are authorized to grant, issue, or renew ROW over, upon, under, or through such lands for...roads, trails, highways, railroads...or other means of transportation, except where such facilities are constructed and maintained in connect with commercial recreation facilities on lands in the National Forest System, or such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, under, or through such lands.”**

The public lands identified for the proposed rail line in Nevada are covered in the Las Vegas Field Office Resource Management Plan (1998) and other resource management plans, such as the California Desert Conservation Area (CDCA) Plan (1980), two CDCA Plan bioregional amendments including the West Mojave Plan (2006) and the Northern and Eastern Mojave Plan (2002), and the Sloan Canyon National Conservation Area Resource Management Plan. Specifically, objective RW-1 of the Field Office Resource Management Plan Record of Decision is to "Meet public demand and reduce impacts to sensitive resources by providing an orderly system of development for transportation, including legal access to private in-holdings, communications, flood control, major utility transmission lines, and related facilities." Further, management direction at RW-1-h states that, "All public land within the planning area, except as stated in RW-1-c through RW-1-g, are available at the discretion of the agency for rights-of-way under the authority of the Federal Land Policy Management Act." The constraints at RW-1-c through RW-1-g do not affect the proposed project or any of the alternatives moved forward for consideration. Any agreement for DesertXpress to utilize the public right-of-way would include numerous conditions. A key condition would likely include provisions in the event of the financial default of the proposed system.

The CDCA Plan provides a regulatory framework for public lands in southeastern California. The plan sets forth goals, specific actions, and management needs for each resource in the desert. The CDCA Plan mandates a high degree of protection and restricts access. Two bioregional management plans amend and implement the CDCA, including the West Mojave Plan and the Northern and Eastern Mojave Plan. Both plans are intended to manage land containing habitat for sensitive species. Pursuant to the CDCA Plan, the BLM establishes areas of critical environmental concern (ACEC) in order to protect areas with significant paleontological, archaeological, and biological resources. The project would not use any ACEC directly but five ACECs are located within one mile of the proposed alignments. Within each of these planning areas are desert wildlife

¹⁹ 43 U.S.C. 1761

management areas (DWMAs) which have been established to manage habitat conservation. The DWMAs, managed by the BLM, are also considered ACECs. **Section 3.1, Land Use and Community Impacts**, of the Draft EIS provides a detailed discussion of the DWMAs and **Figure 3-1.2** of the Draft EIS shows BLM Resource Management Plan (RMP) areas and DWMAs relative to the study area.

1.5.3 SURFACE TRANSPORTATION BOARD

The construction and operation of a new rail line requires STB authorization in advance under 49 U.S.C. 10901 and 49 C.F.R. Section 1150. As explained in **Section 1.4.1.1 above, the STB's jurisdiction over rail transportation and the remedies provided under the Interstate Commerce Act** (as amended by the ICC Termination Act) is exclusive, expressly preempting other remedies under federal or state laws. This broad preemption established by Congress in Section 10501(b) of the Interstate Commerce Act (as amended) reflects the importance of and need for uniformity in the construction of the interstate rail system.

1.5.4 FEDERAL HIGHWAY ADMINISTRATION

FHWA is charged by Congress with improving mobility and serving as a steward of national highways. FHWA approval is required for any project within the Interstate highway system ROW. **FHWA's formal role** in project approval is to ensure that any use other than the Interstate highway use does not interfere with the free flow of traffic on the Interstate system.²⁰

FHWA's primary focus in the approval process is the evaluation of the proposed project's impacts on the operation, maintenance, and safety of the Interstate highway system, specifically decisions on allowing the project to occupy or use the Interstate rights-of-way. FHWA intends to execute a Memorandum of Agreement with the project applicant to retain any necessary stewardship and oversight of the project during the design process, as well as to address design issues that avoid, minimize, and mitigate any remaining potential adverse impacts to Interstate operations, maintenance, and safety.

A design safety working group consisting of FRA, FHWA, Caltrans, NDOT and the Applicant developed the Highway Interface Manual, included as **Appendix F-B** of this Final EIS, to begin addressing safety and security issues for the proposed project. It is anticipated that the Manual will be further developed and refined during the design

²⁰ 23 U.S.C 111 and 23 CFR 1.23; personal communication, Edward Kussy, Deputy Chief Counsel FHWA and Harold Aiken, Assistant Chief Counsel FHWA, March 1, 2007.

process to ensure consistency with FRA and FHWA safety obligations. In addition, the Applicant shall complete an Emergency Preparedness Plan for FRA Office of Safety review and approval as required under 49 CFR Part 239.

1.5.5 NATIONAL PARK SERVICE

Several statutory authorities provide the regulatory framework for operations of the NPS. The NPS was established and its original mission was defined within the Organic Act of 1916 (16 U.S.C. 1-4). Since that time, numerous other laws have been enacted that **together comprise the agency's regulatory framework. An optional alignment for the DesertXpress project (Segment 4A) would traverse a 1.55 mile portion of the Mojave National Preserve, a unit of the NPS, south of the Clark Mountains and I-15, near Mountain Pass, California. As of January 2009, regulations specific to the Preserve do not include any ability for the NPS to grant a private transportation ROW through the Preserve. Nevertheless, this Segment is being carried through the environmental review process while various legislative/land exchange options are being considered by the NPS, BLM, and other key agencies.**

1.6 RELATIONSHIP TO OTHER TRANSPORTATION PROJECTS AND PLANS IN THE STUDY AREA

This section discusses several transportation projects and plans in the study area. This section distinguishes between funded or otherwise reasonably foreseeable projects (such as **as are included in a state's transportation improvement plan (STIP)**) and plans which comprises proposed transportation improvements that are not funded or otherwise not deemed reasonably foreseeable at this time.

1.6.1 CALIFORNIA-NEVADA INTERSTATE MAGLEV TRAIN

Since its inception in 1987, the California-Nevada Super Speed Train Commission has been pursuing development of the California-Nevada Interstate Maglev project, employing magnetic levitation train technology over a 268-mile alignment between Anaheim, California, and Las Vegas, Nevada. **The Commission's Proposal includes the following components:**

- Proposed stops include Downtown Las Vegas and Primm in Nevada and Ontario, Victorville, Barstow, and Anaheim in southern California.
- Express service from Anaheim to Las Vegas would have a travel time of approximately 87 minutes and ultimately provide high-speed maglev service at speeds of up to 310 mph.

- For the portion between Ontario, California and Las Vegas, Nevada, the proposed Maglev project is envisioned to operate in the I-15 corridor, similar to DesertXpress.
- From Ontario to Anaheim the proposed project would continue through existing transportation corridors.
- Portions of the alignment would be elevated and gradients would reach up to 10 percent.
- Maintenance facilities would be located at either end of the alignment and in Barstow.
- Intermodal transportation features would be included at all proposed station locations.

Most of the planning funds for the Maglev project have been provided by congressional appropriations through the FRA and sponsors have sought to secure additional Federal funding for planning, permitting, design, and construction. At present, the California-Nevada Super Speed Train Commission exists only as a Nevada state entity, thus limiting its implementation authority to Nevada.

The Maglev project is currently undergoing separate federally funded environmental review under the direction of the FRA, NDOT, and Caltrans. On May 20, 2004, FRA published a Notice of Intent (NOI) in the Federal Register to prepare an EIS for the Maglev project. Public and agency scoping for the Maglev EIS was completed in 2005. As of the date of this publication, limited Federal funding and a lack of private, state or local funds have delayed progress on the Maglev EIS. A recent allocation of Federal funds allowed for further studies of a new rail line using magnetic levitation technology between Las Vegas and Primm, Nevada, as a segment of the high-speed MAGLEV system between Las Vegas, Nevada, and Anaheim, California. Congress provided \$45 million through Section 102 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59, 119 Stat. 1144, August 10, 2005) (SAFETEA-LU) as amended by the SAFETEA-LU Technical Corrections Act of 2008 (Public Law 110-122, 122 Stat. 1572, June 6, 2008) to fund deployment of a maglev project between Las Vegas and Primm, Nevada. NDOT is working with FRA to define the scope of work for a funding agreement to support the preparation of an environmental impact statement analyzing the impacts associated with the proposed Maglev project.

Despite the allocation of initial funding for environmental review, implementation of the Maglev project is speculative due to uncertainty in financing to support actual construction and operation of the project. No private financing has been committed to the Maglev project as of the date of this publication, although the financial plan for the first segment includes private sector bond financing.

If Commission authority is extended into California in the future and the Commission procures financing to implement the project, the Maglev project and DesertXpress project could be considered competitive proposals in that they would both share ROW with I-15 and are proposed to serve a similar travel corridor. For the purposes of this Final EIS, the Maglev project is not considered a foreseeable project; it is not included in the discussion of cumulative projects in **Section 3.16, Cumulative Impacts**. FRA is analyzing only the DesertXpress project in this Final EIS and only the California-Nevada Interstate Maglev project in the separate EIS pertaining to it because FRA believes there is no realistic scenario under which both proposed projects would be advanced and built. The two projects would serve similar markets and it is not reasonably foreseeable that the market would be large enough to support operations of both systems simultaneously. FRA also finds it appropriate to address each proposed project in a separate EIS because the projects are not interchangeable and are not two alternatives for the same Federal action. The DesertXpress project and the California-Nevada Interstate Maglev project are both sponsored by private entities and neither proposes or would contemplate using the technology proposed by the other. Similarly, because each project proposes a substantially different technology, the safety regime and project development time needed to implement each project is significantly different. This would involve unique federal actions over varying time periods.

1.6.2 CALIFORNIA HIGH-SPEED RAIL

The California High-Speed Rail Authority (CHSRA), established in 1996, has studied and proposes to implement high-speed rail service that would run from the San Diego, Orange County, and Los Angeles metropolitan areas north through California's Central Valley to the San Francisco Bay Area and Sacramento regions. FRA and the CHSRA have completed two Programmatic Environmental Impact Statements/Environmental Impact Reports²¹ (EIR/EIS) and project-level EIR/EISs are underway for all segments of the proposed California High-Speed Train.

In addition, CHSRA applied for funding under FRA's High-Speed Intercity Passenger Rail Program. CHSRA's was selected to receive funding; FRA and the CHSRA have entered into a cooperative agreement to complete the project-level environmental analysis and preliminary engineering for all of the segments as well as final design and construction of an operable segment in California's Central Valley once the necessary environmental studies are completed. These funds are being made available through the American Recovery and Reinvestment Act and the Department of Transportation and Housing and Urban Development Appropriations Act of 2010.

²¹ Environmental Impact Reports are required under the California Environmental Quality Act.

As the California High-Speed Rail project would serve only California cities, the DesertXpress project would serve a different market and ridership. The easternmost proposed California High-Speed Rail station would be near the ONT airport, about 45 miles southwest of the proposed DesertXpress terminus in Victorville. Another relatively close proposed station would be at Palmdale, some 49 miles west of Victorville. An extended DesertXpress could connect with the California High-Speed Train at either location; such an extension, however, would have utility independent of either project and is not part of either the DesertXpress project or the California High-Speed Rail project.

1.6.3 REGIONAL TRANSPORTATION COMMISSION OF SOUTHERN NEVADA RAIL CORRIDOR STUDY

The Regional Transportation Commission of Southern Nevada (RTC), supported by Federal funding provided by the FRA, has prepared a study of potential rail corridor improvements between Las Vegas and Los Angeles to support conventional passenger rail service. This study has considered the existing rail lines between Victorville and Las Vegas (which do not follow the I-15 corridor but instead follow a southern route, through the Mojave National Preserve) and concluded that even with \$1 to \$3 billion of improvements, the conventional rail trip time between Las Vegas and Victorville would be approximately 3 hours and 30 minutes, with an additional 2-hour ride to Union Station in Los Angeles. This type of service could not likely be privately financed and would probably require an operating subsidy. Many aspects of this study limit its comparability to the DesertXpress proposal. Most critically, the study examined potential shared use of the UPRR with freight trains; DesertXpress would use a new and exclusive double track system. These elements, in addition to the location of the DesertXpress alignment generally paralleling the existing I-15, would allow the DesertXpress project to provide higher frequency service, shorter travel time, and a more reliable service in comparison to the service contemplated in the RTC study.

1.6.4 VICTORVILLE I-15 INTERCHANGE IMPROVEMENTS

Caltrans and FHWA are planning a project that would add a third mixed-flow lane on southbound I-15 and construct interchange improvements at six interchanges in Victorville, including the Stoddard Wells interchanges and those at D Street and E Street/State Route 18 (SR 18). The interchange improvements would restore standards and improve operation characteristics and safety. These improvements would be compatible with the proposed project, which would include a passenger station in the immediate vicinity.

1.6.5 I-15 CORRIDOR PLANNED IMPROVEMENTS

In addition to the improvements at the Stoddard Wells Road interchanges discussed above, a number of other projects are under consideration to improve capacity and/or operations of the I-15 corridor. These include:

- Reversible carpool lanes between Interstate 210 (I-210) (Ontario) and U.S. Route 395 (U.S. 395) (Victorville)
- Northbound truck climbing lane between Bailey Road and Yates Road

1.6.6 HIGH DESERT CORRIDOR PROJECT

Caltrans is proposing to construct a new 63 mile freeway/expressway connecting California State Route 14 (SR 14) in City of Palmdale within Los Angeles County and California State Route 18 (SR 18) in Apple Valley within San Bernardino County. The proposed route would run primarily in an east-west direction roughly following the alignment of the Avenue P-8 near SR 14 in Los Angeles County and Air Expressway near I-15 in San Bernardino County. East of the I-15 corridor, the proposed route would turn south and terminate at SR 18. This project would provide improved linkage between the Victor Valley and the Antelope Valley through a variety of new facilities and facility expansions.

FHWA, on behalf of Caltrans, issued a Notice of Intent to prepare an EIS for the proposed High Desert Corridor—New State Route 138 Freeway/Expressway project in September 2010. A Draft EIR/EIS is anticipated to be published in the fall of 2012. The City of Victorville received federal funds to develop a portion of the corridor between U.S. 395 and I-15 and westerly to SR 18.

1.6.7 US 395 REALIGNMENT AND WIDENING

Realignment and widening is under consideration for a portion of U.S. 395 between I-15 and Farmington Road, approximately 6 miles west of the proposed Victorville station sites. Local and state agencies are studying several alternatives; no preferred alternative has been selected as of January 2007. This project will be tracked as the DesertXpress project EIS moves forward. The DesertXpress project would not conflict with this highway project that would increase local area highway capacity. The San Bernardino

County Association of Governments (SANBAG) is no longer the lead agency for this project. Caltrans is continuing to pursue this project; completion of the required environmental studies is anticipated in 2015.²²

1.6.8 SOUTHERN NEVADA SUPPLEMENTAL AIRPORT

The CCDOA is proposing to construct a new supplemental commercial service airport in the Ivanpah Valley of southern Nevada. The new SNSA would provide additional capacity to serve the residents of the Las Vegas area and Clark County, Nevada area. It would not replace McCarran International Airport. In 2010, the FAA suspended environmental work on the SNSA without identifying a date certain at which work would resume.

The DesertXpress project could potentially serve the proposed new airport. DesertXpress would pass by the site of the proposed new airport, allowing for a potential airport rail link to be constructed.²³ To serve the proposed airport in the future, a spur track would need to be constructed off the mainline into the terminal area that would allow trains dedicated to airport service to be operated directly from the new airport to Las Vegas over the mainline DesertXpress tracks. DesertXpress Enterprises, LLC, airport officials, and Clark County may consider this possibility at some future date.²⁴

1.6.9 RESORT CORRIDOR FIXED GUIDEWAY MONORAIL EXTENSION

The Las Vegas Monorail Company (LVMC) is proposing an extension to the Resort Corridor Fixed Guideway Monorail System (Monorail), which is an automated (driverless) and elevated rail system, running along side streets east of the Las Vegas Strip (Las Vegas Boulevard). The 4-mile long route opened in 2004 and runs roughly north-south. The system has a total of 7 stations, associated with major hotels along the Las Vegas Strip.²⁵

²² Referenced at <http://www.dot.ca.gov/dist8/projects/san_bernardino/us395/index.htm>; accessed November 5, 2010.

²³ Construction of a link to the proposed Southern Nevada Supplemental Airport is not part of the current DesertXpress proposal and is not evaluated in this EIS. Construction and operations of such a link would require separate environmental review.

²⁴ The economic viability of the DesertXpress Project does not rely upon an airport shuttle or other forms of transportation linking to the proposed Supplemental Airport.

²⁵ Available at <http://www.lvmonorail.com/>.

The RTC included the extension of the monorail south to McCarran International Airport, in its Regional Transportation Plan 2009-2030, Draft for Consultation, September 2008 (Project #4200). The DesertXpress project has the potential to be complementary to the Monorail if Monorail service were extended to the selected Las Vegas area DesertXpress station.

1.6.10 ACE RAPID TRANSIT SYSTEM

In 2004, the RTC added the first Metropolitan Area Express (MAX) line to its transit system. Then in October 2005, the Deuce double-deck bus service began running on the Las Vegas Strip and in 2009 the RTC will launch the ACE Rapid Transit system starting with the ACE Downtown Connector. The ACE Downtown Connector project will provide a high-grade rapid transit link between downtown Las Vegas and the southern resort corridor. Project components will include dedicated transit lanes along a portion of the alignment along with passenger stations with station canopies, lighting, ticket vending machines and displays announcing vehicle arrival times. The stations will have unique artistic displays created by local artists as well as refurbished historic neon signs.

The City of Las Vegas in partnership with the RTC have begun work on the project, which includes roadway and station platform improvements along Grand Central Parkway, Casino Center Boulevard, 3rd Street, and Paradise Road.²⁶

The RTC has started rapid bus transit service on two of several scheduled lines. In March 2010, service began on the Gold and C Lines. The Gold Line serves Downtown Las Vegas and The Strip; the C Line provides express service from Northeast Las Vegas towards the University of Nevada Las Vegas (UNLV) campus, northwest of LAX. Other lines in the system are expected to be operational by 2011.

1.6.11 REGIONAL TRANSPORTATION COMMISSION OF SOUTHERN NEVADA

The RTC is the regional transportation planning agency for southern Nevada and functions as the Metropolitan Planning Organization (MPO) for the region. The RTC prepares the Regional Transportation Plan (RTP) which is a comprehensive and long-range plan for the transportation system in the Las Vegas metropolitan area. It details the transportation investment needed between now and the year 2030. The RTP is also the guiding document for making the best use of federal transportation funds. The transportation analysis conducted for this Final EIS (see **Section 3.5, Traffic and Transportation**) utilizes traffic projections and transportation system network

²⁶ Available at :<http://www.rtcsonthernnevada.com/mpo/downtownconnector/>

assumptions from the 2030 RTP. This Final EIS also assumes that the proposed DesertXpress project would be constructed primarily on elevated structure within the existing I-15 freeway right of way within the Las Vegas metropolitan area.

The RTC is working on an update to the RTP (the 2035 RTP), which includes further widening of the I-15 freeway in the metropolitan Las Vegas area to meet future travel demand. At the time of this publication, the DesertXpress project is not included in the 2035 RTP as a future transportation project. The project could be considered for the 2035 RTP at a future date pending the status of the environmental review process and identified sources of funding.²⁷

DesertXpress has tried to avoid or minimize conflict with the I-15 freeway through a variety of means. First, plans for portions of Segment 6 in the Las Vegas area were **initially proposed to be on elevated structures to minimize the “footprint” of the rail alignment**. Following subsequent consultation with NDOT and FHWA, DesertXpress proposed modifications to Segment 6B which in effect shift the rail alignment west and outside of the I-15 freeway corridor. DesertXpress has continued to consult with NDOT throughout the EIS process, and has demonstrated to NDOT that the rail alignment can be accommodated throughout the I-15 corridor in Nevada taking into account existing conditions and planned improvements.

In addition, the Draft EIS included rail Segments 6C and 7C that would avoid the urbanized portion of the I-15 freeway in the Las Vegas area by instead following the UPRR alignment from Sloan into a Las Vegas passenger station.

1.7 ISSUES RAISED DURING SCOPING

The FRA initiated the formal scoping process by publishing a NOI to prepare an EIS in the Federal Register on July 14, 2006.

Three public scoping meetings were held as part of the public scoping process:

Las Vegas	Barstow	Victorville
The White House	Ramada Inn	San Bernardino County Fair Grounds
3260 Joe Brown Drive	1571 E Main Street	14800 Seventh Street, Building 3
July 25, 2006	July 26, 2006	July 26, 2006
5:00 p.m. – 8:00 p.m.	12:00 p.m. – 2:00 p.m.	5:00 p.m. – 8:00 p.m.

²⁷ Personal communication, Martyn James, Director of Planning Services, RTC, October 28, 2010.

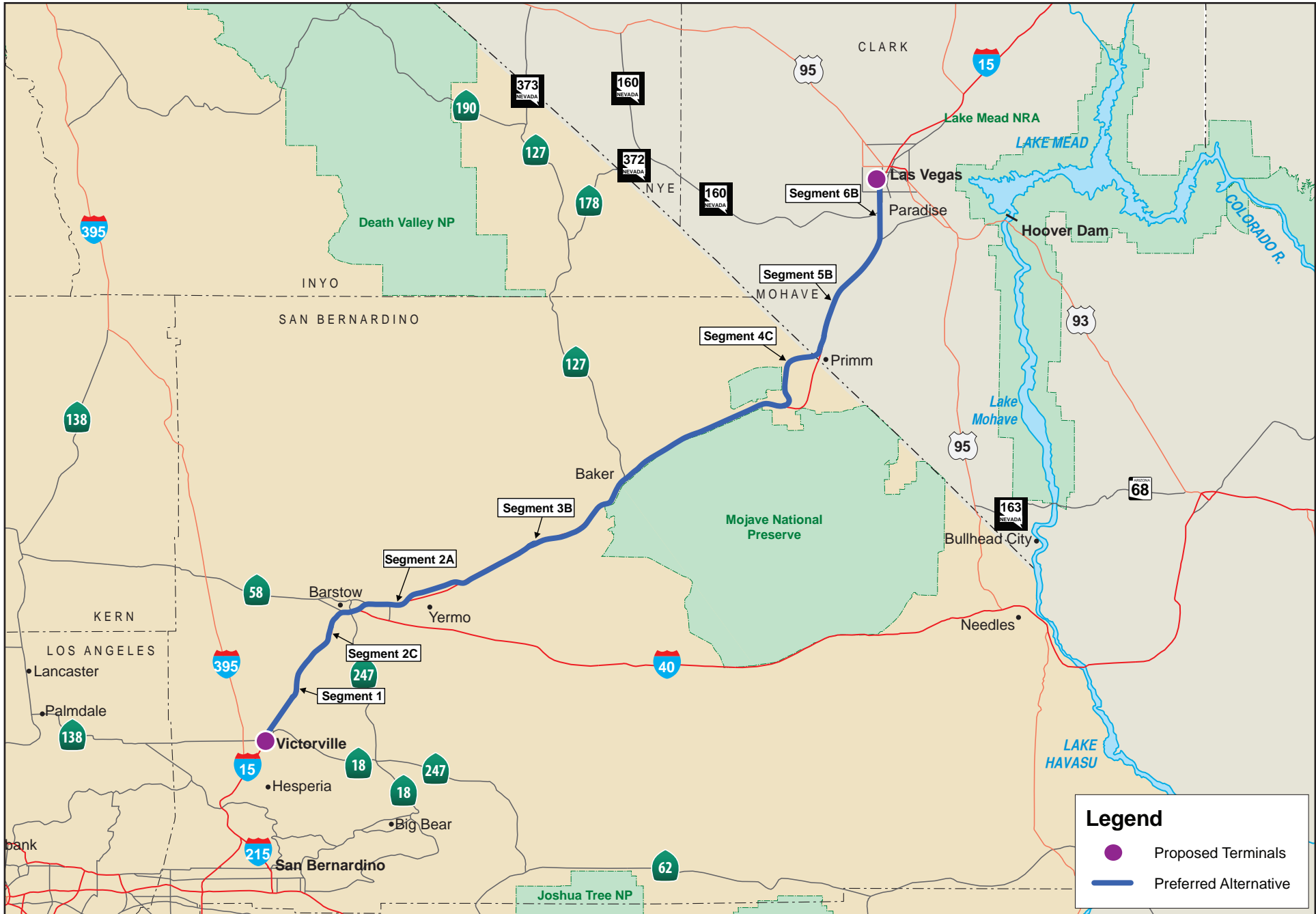
These meetings provided an opportunity for the public and agencies to comment on the scope of environmental topics that will be analyzed in the EIS. Approximately 60 members of the public attended the scoping meetings. The comments received during scoping are summarized along with the disposition of the comments are summarized in the Scoping Summary Report contained in Draft EIS **Appendix P**.

1.7.1 PROVISION OF A BARSTOW PASSENGER STATION

The City of Barstow raised a concern during scoping that the project did not include a passenger station located in the City of Barstow.

Ridership studies conducted for the DesertXpress project by the Applicant did not project significant ridership generation from the Barstow area that warranted construction of a separate station. In addition to the finding that ridership studies do not support a separate Barstow station facility, in order for high-speed trains to operate effectively it is necessary to maximize the distance between stations to allow for increased speeds and competitive trip times. The proposed station sites in Victorville are approximately 20 miles south of the center of the City of Barstow, (with Victorville Station Site 3 (VV3), part of the Preferred Alternative, at 23 miles south). The Applicant determined the Victorville Station alternatives were sufficiently close to provide convenient access for Barstow residents.

In addition, in response to a request from the City of Barstow, the Applicant developed an alignment option (Segment 2C) that would follow the I-15 freeway through Barstow. Segment 2C was fully analyzed in the Supplemental Draft EIS and is part of the Preferred Alternative further described in **Section 2.5.1** of this Final EIS.



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