

**U.S. Department of Transportation
Federal Railroad Administration**

FINDING OF NO SIGNIFICANT IMPACT

**Brightline West Cajon Pass High-Speed Rail Project
Victor Valley to Rancho Cucamonga, California
July 2023**

1 Introduction

Brightline West, the Project Sponsor, proposes to construct and operate the Brightline West Cajon Pass High-Speed Rail Project (Project), a 49-mile train system capable of reaching a top speed of approximately 140 miles per hour (mph) between Victor Valley and Rancho Cucamonga, California. The Project includes two new railway stations—one in Hesperia, and one in Rancho Cucamonga. The connecting station in Victor Valley was approved as part of a separate project that was evaluated in the DesertXpress Final Environmental Impact Statement (Final EIS; FRA 2011).

Brightline West proposes to construct and operate the Project within the Interstate-15 (I-15) right-of-way for 48 miles and on existing transportation corridors for the last mile into the proposed Rancho Cucamonga station (see Figure 1). The Project will be powered by overhead electric catenary and require construction of one new traction power substation in the Hesperia area. The maintenance facility that was approved with the DesertXpress Project will provide the primary maintenance functions (Final EIS; FRA 2011). Additional layover tracks are anticipated at the Rancho Cucamonga station, which could include light maintenance capability, such as interior cleaning and daily inspection.

Trains are expected to operate daily on 60-minute headways between Victor Valley and Rancho Cucamonga. The trip between Victor Valley and Rancho Cucamonga will be approximately 35 minutes. Service will be coordinated with existing and planned Metrolink service at the Rancho Cucamonga station to provide a convenient connection between the HSR and commuter rail systems.

Brightline West will construct and operate the Project under a lease agreement with the California Department of Transportation (Caltrans) for the use of the I-15 right-of-way and the station at Hesperia. Brightline West will secure additional agreements for Right-of-Way Use; Design & Construction Oversight and Reimbursement; and Operations & Maintenance, as necessary, including agreements with the City of Rancho Cucamonga and the San Bernardino County Transportation Authority (SBCTA) for land rights, construction, operations, and maintenance for the last mile of the Project from I-15 to Rancho Cucamonga station.

Since Federal funds and Federal permits are necessary for the Project, compliance with the National Environmental Policy Act of 1969 (42 USC § 4321 et seq.) (NEPA) is required. The federal actions and approvals required for implementation of the Project are listed in **Exhibit 1**. The Federal Railroad Administration (FRA) is the lead Federal agency for review under NEPA. FRA, in cooperation with the Federal Highway Administration (FHWA), Surface Transportation Board (STB), United States Army Corps of Engineers (USACE), and Yuhaaviatam of San Manuel Nation, prepared an Environmental Assessment (EA) and draft Section 4(f) Evaluation in October 2022 evaluating the potential environmental effects of the Project. FRA prepared the EA in accordance with NEPA, the Council on Environmental Quality's (CEQ) NEPA implementing regulations (40 CFR Parts 1500-1508), and FRA's Environmental Impact and Related Procedures (23 CFR Parts 771 and 774)), and other related laws and requirements. The EA documents the effects of the Project on the environment and the measures that will be implemented to avoid, reduce, and mitigate the Project's adverse effects on social, economic, and environmental resources.

Exhibit 1
Federal Permits and Approvals

Agency	Coordination and Approvals
U.S. Fish and Wildlife Service (USFWS)	Consultation consistent with Section 7 of the Endangered Species Act
U.S. Army Corps of Engineers (USACE)	Section 404 Permit, pursuant to the Federal Clean Water Act
Surface Transportation Board (STB)	Approval for Construction and Operation
Federal Railroad Administration (FRA)	49 U.S.C. Sections 103, 20103 – Authority to regulate the safety of railroads 49 CFR Part 236 – Type and safety approval for the signaling system (ETCS) 49 CFR Part 238 – Vehicle qualification for the rolling stock
Federal Highway Administration (FHWA)	Jurisdiction over the use of and/or modification of Interstate highway right-of-way

The EA was made available for review by agencies and the public for a 30-day review and comment period between October 28, 2022, and November 28, 2022. A notice of availability of the EA was distributed via email and postcard to the Project mailing list and residents of the Project area. The EA was available on FRA’s website¹ and Regulations.gov² and its availability was advertised in the Rancho Cucamonga Daily Bulletin, The Sun, and Victor Valley News. FRA held virtual public meetings on November 12, 2022, and November 15, 2022. Summaries of comments received on the EA and responses to those comments are provided in **Attachment C**; the full text of all comments is provided in **Attachment D**.

This Finding of No Significant Impact (FONSI) is made based on the information in the EA to comply with NEPA, CEQ’s implementing regulations, FRA’s Environmental Impact and Related Procedures; and other applicable laws, including Section 106 of the National Historic Preservation Act (Section 106) and Section 4(f) of the U.S. Department of Transportation Act of 1966 (Section 4(f)). The EA is incorporated by reference into this FONSI. The use of errata sheets (**Attachment B**) in lieu of a Final EA is appropriate under CEQ’s regulations as the comments received on the EA were minor in nature and the responses to the comments are limited to factual corrections of explanations of why the comments do not warrant further response.³ Corrections in **Attachment B** are limited to clarification of mitigation measures and to the discussion of impacts regarding wetland and stream areas, land use, hazardous materials, transportation, and safety, as well as minor revisions to figures.

¹ <https://railroads.dot.gov/rail-network-development/environment/environmental-reviews/brightline-west-cajon-pass-high-speed>

² <https://www.regulations.gov/docket/FRA-2022-0090>

³ USDOT, 2019. Guidance on the Use of Combined Final Environmental Impact Statements/Records of Decision and Errata Sheets in National Environmental Policy Act Reviews. Available: <https://www.transportation.gov/sites/dot.gov/files/docs/mission/transportation-policy/permittingcenter/337371/feis-rod-guidance-final-04302019.pdf>.

2 Purpose and Need

The purpose of the Project is to provide reliable and safe passenger rail transportation between the Los Angeles metropolitan region and the High Desert of San Bernardino County by providing an alternative to automobile travel along the I-15 freeway by adding capacity to the overall transportation system to reduce travel time between metropolitan regions.

The Project is needed to address transportation capacity, congestion, limited travel mode choices, safety, and reduce greenhouse gas (GHG) emissions. Travel demand analysis forecasts 49.1 million one-way trips between Southern California and Las Vegas in 2025, with approximately 85 percent of travelers making the trip by automobile. Most of these trips use the capacity-constrained Cajon Pass segment of I-15. Further, the freeway system leading into I-15 from points west, east, and south, including Interstate (I-) 10, State Route (SR-) 210, I-215 and SR-60 have similar delays and capacity constraints. Refer to Section 2.3 of the attached EA for a complete description of the Project's purpose and need.

3 Alternatives Considered

3.1 No Action Alternative

The No Build Alternative will involve no action to create a passenger HSR system in the median and immediately alongside the I-15 highway between Victor Valley and Rancho Cucamonga. The I-15 corridor will remain operational without improving the major points of congestion or transportation capacity deficiencies along the highway. There are two planned improvements on I-15 within the project study area. The first project, Caltrans' the I-15 Interchange Reconstruction Project, consists of improvements to the D Street, E Street, Stoddard Wells Road, and Mojave River Bridge interchanges to improve traffic safety, operational characteristics, and aesthetics. The second project is the I-15 Pavement Rehabilitation Project which is intended to improve the safety performance and smoothness of the roadway. Neither of these projects would increase capacity on I-15 or meet any of the other identified transportation needs. The No Build Alternative will not result in temporary or permanent impacts to resources in the affected environment as no project related activities or construction will occur. Travelers between Victor Valley and Rancho Cucamonga will continue to use passenger cars for travel. Due to anticipated population increases, travel demand along I-15 will increase, along with Vehicle Miles Traveled (VMT) and associated criteria air pollutants, TACs, and GHG emissions from passenger vehicles.

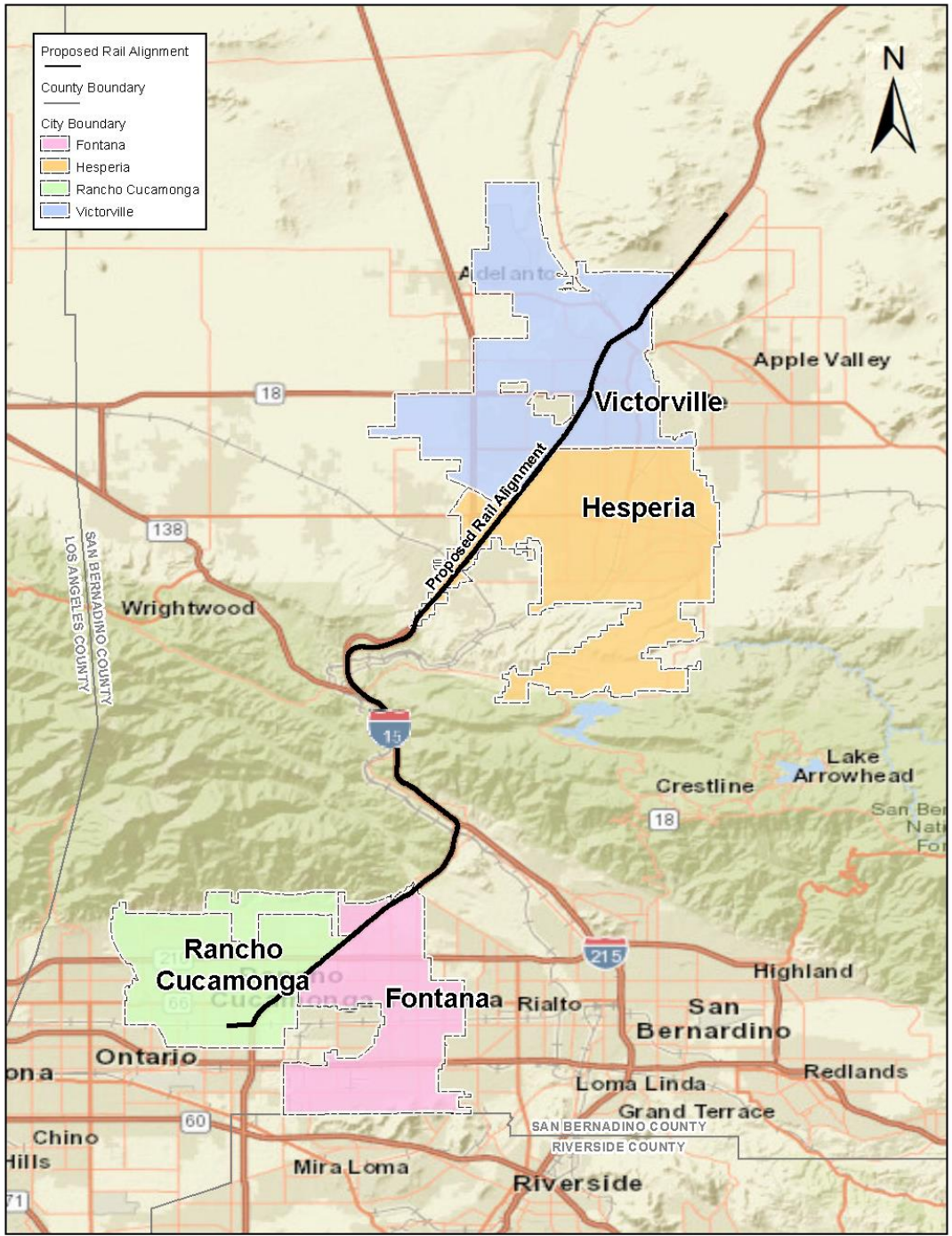
3.2 Build Alternative

The Build Alternative (i.e., the Project) consists of a proposed HSR passenger railway with associated infrastructure, including two new proposed passenger stations. Nearly all of the Project will be built within the I-15 right-of-way. Near the proposed southern terminus station in Rancho Cucamonga, approximately one mile of the rail alignment will be in city street, railroad, or utility rights-of-way.

The proposed rail alignment, as shown in Figure 1, will be located within the median of I-15 freeway between Victor Valley and Rancho Cucamonga except at the approach to the proposed Rancho Cucamonga station. The rail alignment will be predominantly at-grade (the same elevation as the existing freeway), with select segments of the alignment on aerial structures or in a trench to allow for grade separations (including four BNSF Railway railroad crossings and three Union Pacific railroad crossings) and to provide a safe incline for train operation. The rail alignment will be predominantly single-track, with limited double-track segments in Victor Valley (2.6 miles, including 0.9 miles constructed as part of the approved DesertXpress Project), Hesperia (5.5 miles), and Rancho Cucamonga (2 miles). This will allow for 60-minute headways in the opening year between Victor Valley and Rancho Cucamonga. These headways along with the ability to couple trains (double passenger capacity), will address projected ridership needs for the foreseeable future.

For analytical purposes, the Build Alternative is described in sections. Sections were developed to reflect similarly developed areas with similar environmental sensitivity. The sections are represented in Figure 2 and include:

- **Section 1:** High Desert - From the Victor Valley station, continuing south along I-15, to the I-15/Oak Hill Road interchange in Hesperia
- **Section 2:** Cajon Pass - From the Oak Hill Road interchange continuing south along I-15, through the Cajon Pass, to the I-15/Kenwood Avenue interchange
- **Section 3:** Greater Los Angeles - From the I-15/Kenwood Avenue interchange in San Bernardino continuing south along I-15, through the existing Metrolink Station in Rancho Cucamonga to Haven Avenue



Source: BrightLine West, 2022; San Bernardino County GIS, 2022; National Geographic, 2022

Figure 1 Project Map

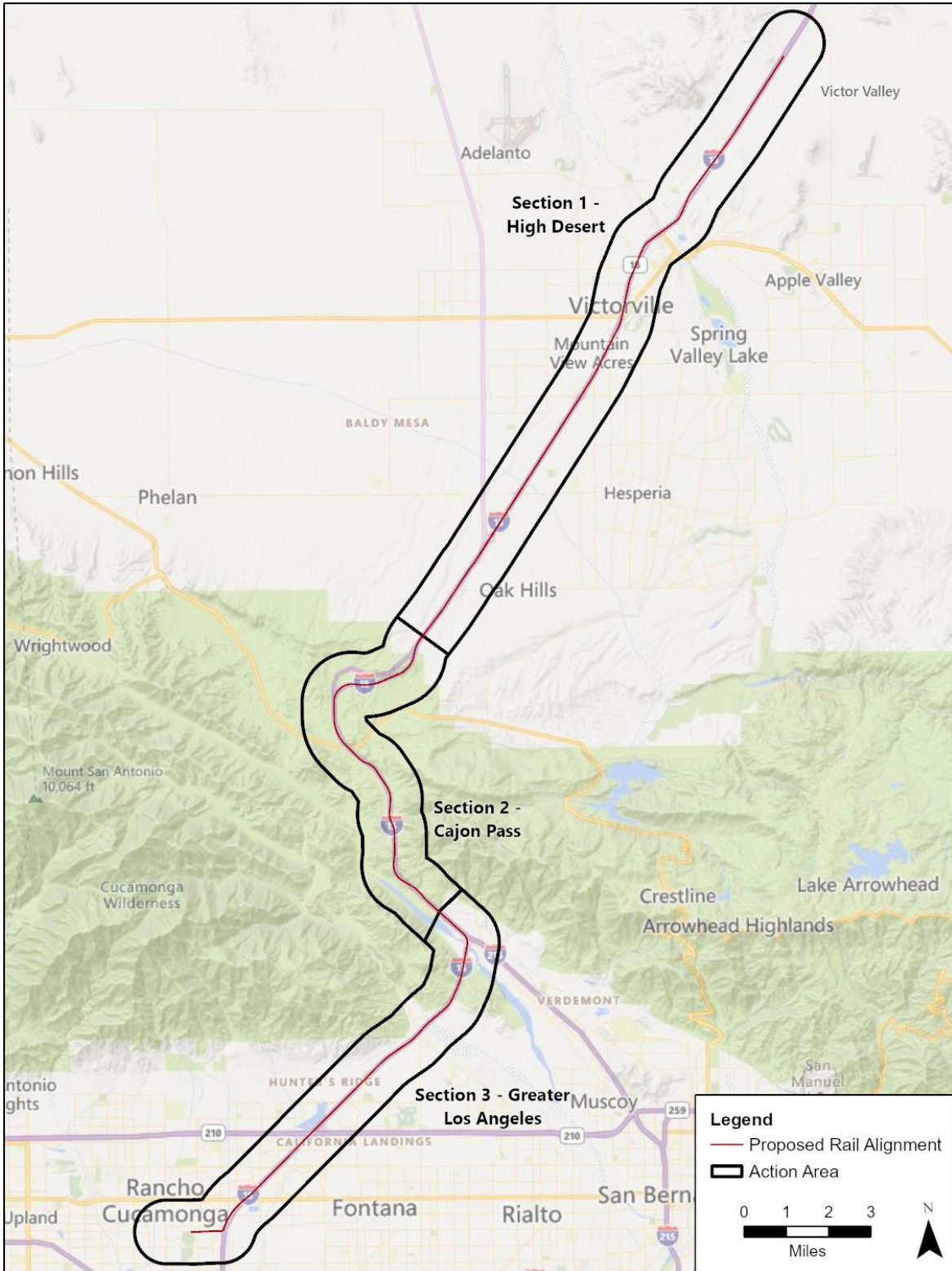


Figure 2 Project Sections

3.3 Selected Alternative

FRA identified the Build Alternative as the Preferred Alternative in the EA. Based on the analysis in the EA, and consideration of public comments received during the comment period, FRA selects the Build Alternative for implementation.

4 Affected Environment and Environmental Consequences

In the EA, FRA defined the study area for the Project, and described the affected environment, regulatory setting, and the environmental consequences for the Project. The No Build Alternative served as a baseline against which to compare the impacts of the Build Alternative. **Exhibit 2** summarizes the potential long-term operations impacts and associated mitigation measures of the Selected Alternative and **Exhibit 3** summarizes the temporary construction impacts of the Selected Alternative. Measures to mitigate the potential for adverse impacts are summarized in both tables, as warranted. The complete text of all environmental commitments, including mitigation measures, is included in **Attachment A**.

Exhibit 2

Summary of Operations Impacts and Mitigation

Analysis Area	Long-Term Operational Impacts of the Selected Alternative	Mitigation
Transportation	<p>The Rancho Cucamonga station will result in traffic impacts to three intersections that are projected to operate at unacceptable level of service during the 2025 Opening Year conditions during peak periods and will also degrade the level of service at the Milliken Avenue/7th Street Intersection compared to the 2045 No Build scenario.</p> <p>Operation of the Project would increase demand for local transit at the Hesperia station, such that the hourly volume of passengers desiring to depart the station via bus will likely exceed the available bus capacity during any single hour. At the Rancho Cucamonga station, the Project will impact passengers utilizing regional rail on Sunday, when there is a 5-hour period in the late afternoon/early evening with only one train in each direction.</p> <p>Based on ridership estimates, parking at the Hesperia and Rancho Cucamonga stations will exceed the amount of existing and planned spaces at the station in the 2045 Horizon Year.</p>	<p>During project design, Brightline West will coordinate with SBCTA, Caltrans, Rancho Cucamonga, and Hesperia to incorporate intersection improvements to lessen or avoid adverse impacts to traffic to the extent feasible, including optimizing signal timing to reflect changes in traffic flows in station areas during operation of the Project.</p> <p>Brightline West will coordinate with local transit agencies to identify opportunities to best serve the needs of transit users at the Hesperia and Rancho Cucamonga stations without significantly affecting other transit services.</p> <p>Brightline West will develop and implement a parking demand management plan prior to operation of the Project to manage increasing parking demand at the Hesperia and Rancho Cucamonga stations.</p>
Land Use and Community Facilities	None	None.
Socioeconomic Environment	None.	None.
Cultural Resources	None.	None.
Aesthetics	<p>The Project would have a permanent impact on views of the San Gabriel and San Bernardino Mountains, as well as the Southern California Edison Boulder Dam-San Bernardino transmission lines from northbound I-15, looking north toward the split of northbound and southbound I-15 as it climbs toward the summit of Cajon Pass.</p>	<p>During the design phase, Brightline West will design rail features, including bridge pillars/columns, raised tracks, trains, catenary structures, crash barriers, retaining walls, abutments, fencing, and embankments to blend with or represent the surrounding desert or urban environment. Features will be created or stained in muted desert colors. Bright colors and highly reflective materials will be avoided, as feasible. Project elements defined in the design process will include visual elements that contribute to a sense of place and a memorable experience for motorists, pedestrians, and rail passengers. Concrete will be embossed with patterns, where appropriate, that are indicative of the surrounding environment and that create a visual link between the railway features and their surroundings and will be similar in character to recent nearby freeway projects.</p>
Water Quality	<p>The Project will result in permanent increased impervious surface along the rail alignment and the proposed Hesperia station, which will increase the amount of stormwater runoff and nonpoint-source pollution in some areas, affecting 48 ephemeral or intermittent drainage features.</p>	<p>To protect water quality, Brightline West will install permanent water quality treatment devices in accordance with the National Pollutant Discharge Elimination System (NPDES) permit obtained for the Project (Mitigation Measure WQ-7).</p> <p>Brightline West will redesign and resize the existing drainage features to accommodate</p>

Analysis Area	Long-Term Operational Impacts of the Selected Alternative	Mitigation
		the potential increase in runoff along the rail alignment. Additionally, stormwater treatment will be designed in accordance with the Caltrans Project Planning and Design Guide (PPDG). The 100-year, 24-hour storm event will be used to determine the appropriate size of drainage facilities need for the Project (Mitigation Measure WQ-8).
Wetlands and Stream Areas	During Project operation, railway crossings over Debris Cone Creek, Cajon Wash/Creek, and Lytle Creek will require new structures in the channels. All crossings will result in less than 0.1 acre of permanent fill. The Project will have no permanent impacts on the Mojave River itself, but a small portion (less than 0.01 acre) of wetlands associated with the Mojave River will be permanently impacted.	Prior to construction, Brightline West will coordinate with USACE to obtain a jurisdictional determination for aquatic resources. If applicable, Brightline West will obtain any required permits and implement all required permit conditions.
Floodplains	None.	None.
Biological Resources	Approximately 64 acres of native vegetation habitat types will be permanently converted to transportation uses by the Project. Permanent impacts occur in a wide variety of habitat types; most permanent impacts would occur in Desert Scrub habitats (37 acres).	Brightline West will implement mitigation and compensation strategies identified during consultation with USFWS and documented in USFWS' Biological Opinion. Brightline West will also obtain an Incidental Take Permit for Endangered Species Act (ESA)-listed species. Refer to Attachment A , for a list and description of Mitigation Measures BIO-1 through BIO-7
Geology, Soils, and Seismicity	Seismic activity during operation could result in impacts related to surface fault rupture, ground shaking, and liquefaction because the Project alignment crosses or comes within 1,000 feet of four major faults: the Sierra Madre, the San Jacinto, the San Andreas, and the Cleghorn faults.	Brightline West will hire qualified geologists and geotechnical engineers to conduct geotechnical investigations along the Project alignment for potential hazards related to geology, soils, seismicity. Brightline West will incorporate recommendations of the evaluation that avoid or minimize hazardous impacts and will be implemented prior to design and construction. Refer to Attachment A for a list and description of Mitigation Measures GEO-2 through GEO-8.
Air Quality and Greenhouse Gas	None. The Project will not result in exceedances of the <i>de minimis</i> thresholds for criteria pollutants in the applicable air basins. As ridership increases during the operation period, the Project will reduce emissions of both criteria pollutants and GHGs by providing an alternative to passenger car travel and reducing vehicle miles traveled within the South Coast Air Basin and Mojave Desert Air Basin, resulting in a beneficial impact to air quality and reductions in greenhouse gas emissions.	None.
Energy Resources	None.	None.
Noise and Vibration	None.	None.

Analysis Area	Long-Term Operational Impacts of the Selected Alternative	Mitigation
Safety and Security	None.	None.
Environmental Justice	The Project will not result in disproportionately high and adverse human health or environmental effects on minority populations and low-income populations.	None.

Exhibit 3

Summary of Construction-Period Impacts and Mitigation

Analysis Area	Temporary Construction-Related Impacts of the Selected Alternative	Mitigation
Transportation	None.	None.
Land Use and Community Facilities	None.	None.
Socioeconomic Environment	None.	None.
Cultural Resources	None.	None.
Aesthetics	Changes in visual quality from construction will result from implementation of standard industry practices, including the use of temporary lighting, fences, barriers, stockpiling of materials, and the use of heavy equipment, and will result in temporary visual disturbances to natural visual resources.	Brightline West will implement measures to minimize nighttime light spillover onto adjacent properties, to reduce glare for freeway motorists, and to prevent visible lighting overflow into the natural dark sky of the desert at night. Visual screening, such as fences, will be erected along construction and staging areas as appropriate. Landscaping and native vegetation that is cleared for temporary construction areas (TCA) will be replaced by Brightline West within one year of the completion of construction at any location along the alignment.

Analysis Area	Temporary Construction-Related Impacts of the Selected Alternative	Mitigation
Water Quality	Construction of the Project will impact water quality from activities involving soil disturbance, excavation, cutting/filling, stockpiling, and grading. Grading could result in increased erosion and sedimentation of surface waters. Stormwater runoff from TCAs could contain sediment and other contaminants, and could carry contaminants to drainages, groundwater, and impaired water bodies.	Brightline West will implement Best Management Practices (BMP) during construction and operation of the Project to minimize impacts on aquatic resources (Mitigation Measure WQ-1), comply with the statewide National Pollutant Discharge Elimination System (Mitigation Measure WQ-2), implement a stormwater pollution prevention program (SWPPP) (Mitigation Measure WQ-3), implement a spill prevention, control and countermeasures plan (SPCC) (Mitigation Measure WQ-4), locate TCAs to avoid key water features (Mitigation Measure WQ-5), and obtain water from existing, commercially available water sources (Mitigation Measure WQ-6).
Wetlands and Streams	Construction of bridges over the Bell Mountain Wash, Mojave River, Brush Creek, Cleghorn Creek, Cajon Wash/Creek and Lytle Creek, will involve work in the Ordinary High Water Mark (OHWM). The Project may require temporary soil disturbance and vegetation clearing within the Mojave River riparian area and in and around other drainages along the corridor.	Brightline West will contract with a qualified biologist, who will be on site prior to and during construction of the Project to identify and protect aquatic resources. The biologist will define the boundaries of the aquatic resources and will supervise the placement of exclusion fencing to protect those areas during all project activities. Additionally, a silt fence around the construction areas adjacent to aquatic resources will protect the resources, including waters of the United States (WOTUS), from runoff and spills associated with construction activities, if any. Aquatic resources that are affected by construction activities (e.g., clearing, ground disturbance) will be restored by Brightline West with native vegetation within one year of the completion of construction at any location along the alignment.
Floodplains	Project construction will involve the use of heavy, earth-moving equipment in the floodplains of the Mojave River and Lytle Creek, and near the floodplains of Etiwanda Channel and Hawker-Crawford Channel. Construction activities within floodplains will likely result in temporary impacts such as minor erosion and runoff on floodplains.	Brightline West will implement BMPs prior to construction to minimize the temporary effects on floodplains, and construction equipment and materials will not be stored within the floodplain. Brightline West will return any temporary effects on floodplains to preconstruction conditions.

Analysis Area	Temporary Construction-Related Impacts of the Selected Alternative	Mitigation
Biological Resources	Construction of the project would have temporary impacts on approximately 2,206 acres of various types of wildlife habitat. The most common habitat types would be Urban (1,787 acres), Desert Scrub (168 acres), and Mixed Chaparral (128 acres). Construction impacts would include disturbance of vegetation and soils, construction noise, hydrologic modifications, facilitation of invasive species, and changes in habitat elements that increase or decrease populations of predators or prey species.	Brightline West will implement mitigation and compensation strategies identified during consultation with USFWS and documented in USFWS' Biological Opinion. Brightline West will also obtain an Incidental Take Permit for ESA-listed species. Refer to Attachment A , for a list and description of Mitigation Measures BIO-1 through BIO-57.
Geology, Soils, and Seismicity	Construction of the Project may result in impacts related to ground fissures due to pile driving.	Brightline West will retain qualified geologists and geotechnical engineers to conduct geotechnical investigations along the Project alignment for potential hazards related to geology, soils, seismicity. Recommendations of the evaluation that avoid or minimize hazardous impacts will be implemented prior to design and construction (Mitigation Measure GEO-1).
Air Quality and Greenhouse Gas	Construction of the Project will temporarily generate emissions of both criteria pollutants and GHGs. However, the Project will not result in exceedances of the <i>de minimis</i> thresholds for criteria pollutants in the applicable air basins. The Project will result in short-term increases in GHG emissions from construction activities.	Prior to construction activities, Brightline West will develop and implement a fugitive dust control plan and utilize additional means to reduce construction period emissions of air pollutants, such as solar powered signal boards.
Energy Resources	None.	None.
Noise and Vibration	Construction of the Project will result in short-term noise impacts to resources due to elevated noise levels associated with construction activities, including construction equipment, diesel engines, impact pile driving and jackhammering.	Brightline West will require the contractors to prepare a detailed Noise Control Plan (Mitigation Measure NOI-1) in coordination with a qualified noise monitor prior to construction. Brightline West will comply with all applicable local noise regulations to minimize temporary construction noise and vibration impacts (Mitigation Measure NOI-2).
Hazardous Materials	Construction of the Project may result in the release of hazardous materials through disturbance of identified hazardous materials sites and using hazardous materials, either of which may result in impacts on human health. There is also the potential to encounter previously unidentified hazardous materials along the Project footprint.	Brightline West will prepare a Hazardous Materials Management Plan (HMMP) prior to application for permits for demolition, grading, or construction, as required by the State of California (Mitigation Measure HAZ-1). The HMMP shall be reviewed and approved by either the office of the State Fire Marshall or the San Bernardino County Certified Unified Program Agency (CUPA). Activities identified in the HMMP will be implemented by Brightline West throughout the construction period.

Analysis Area	Temporary Construction-Related Impacts of the Selected Alternative	Mitigation
Safety	<p>Construction of the Project will involve use of heavy equipment on site, earthwork, and other major construction activities, including the transportation of overweight and oversized materials. Throughout construction, workers and nearby community members could be exposed to hazards, which could affect human health or present to safety from construction site hazards and accidents, associated with construction site equipment and activities.</p> <p>Project construction could temporarily increase fire risks in the high fire hazard severity zones (FHSZ) due to the storage and use of flammable or combustible materials, operation of vehicles and heavy machinery.</p> <p>The Rancho Cucamonga and Hesperia stations will not be located within FSHZ zones.</p>	<p>Brightline West will implement construction safety requirements during construction, per regulatory requirements, including California Division of Occupational Safety and Health (Cal OSHA) Construction Safety Orders and California Public Utilities Commission (CPUC) General Order No. 176.</p>
Environmental Justice	<p>The Project will not result in disproportionately high and adverse human health or environmental effects on minority populations and low-income populations.</p>	None.

5 Section 106 Determination

FRA completed consultation in accordance with Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR Part 800), which require Federal agencies to: 1) take into account the effects of their undertakings on historic properties that are listed in, or meet the eligibility criteria for listing in, the National Register of Historic Places (NRHP); and 2) afford the Advisory Council on Historic Preservation (ACHP) and the State Historic Preservation Office (SHPO) a reasonable opportunity to comment. Section 106 also requires that agency officials work with SHPO to identify parties to participate in the Section 106 process (consulting parties). Consulting parties may include, but are not limited to, local governments, federally-recognized Native American tribes, and individuals and organizations with a demonstrated interest in a project.

FRA sent information about the Project to Chairpersons for the Chemehuevi Indian Tribes, the Colorado River Indian Tribes, the Morongo Band of Mission Indians, the Soboba Band of Luiseno Indians, and Twenty-Nine Palms Band of Mission Indians as well as to the Tribal Historic Preservation Officers (THPOs) for the Colorado River Indian Tribes, Morongo Band of Mission Indians, San Fernando Band of Mission Indians, Soboba Band of Luiseno Indians, Twenty-Nine Palms Band of Mission Indians, and identified tribal contacts for the Yuhaaviatam of San Manuel Nation. FRA, as lead Federal agency responsible for Section 106 compliance for the Project, extended invitations to local preservation groups, local planning agencies, neighborhood associations, and other organizations to participate in consultation. The following entities agreed to be consulting parties for the Project's Section 106 consultation process: ACHP, Brightline West, Caltrans, City of Fontana, City of Ontario, City of Rancho Cucamonga, City of Rialto, City of Victorville, FHWA, STB, USACE, and the United States Forest Service.

Identification and evaluation of historic properties and assessment of effects was conducted within the Area of Potential Effect (APE) in accordance with the requirements of 36 CFR part 800. Because no NRHP-eligible resources were identified in the portion of the APE where ground-disturbing activities will occur, and because eligible resources outside of that area would be sufficiently distant from construction activities that no noise or vibration impacts are anticipated, FRA concluded that the Project would have no adverse effects on NRHP-eligible or listed historic properties. On May 22, 2023 the California SHPO did not object to FRA's finding of no adverse effect for the Project. FRA issued

the final Finding of Effect reporting and documentation of FRA's finding of no adverse effect for the Project on June 30, 2023 to all consulting parties.

FRA acknowledges that properties may be identified within the APE as the Project progresses, such as previously unidentified historic properties, historic properties (including Traditional Cultural Landscapes and Traditional Cultural Properties) with previously unknown or undocumented eligibility under the NRHP criteria, or cultural resources that have recently reached the age threshold for consideration for eligibility for listing in the NRHP. In the event previously unknown potential historic properties are identified or unanticipated effects from the Project on known historic properties are found, FRA would address them under the post-review discoveries process at 36 CFR § 800.13(b).

FRA considered developing a Programmatic Agreement (PA) to govern any future changes to the APE and the potential for additional identification of historic properties and assessment of effects that may result from changes to the APE. However, coordination with the Project Sponsor indicates that the Project design has progressed such that changes to the APE are not expected. As a result, FRA determined a PA is unnecessary. Any changes to the APE or design changes from the Project that may result in new or different types of effects to known historic properties would be addressed by FRA under re-initiation of Section 106 compliance steps under 36 CFR § 800.4 through § 800.6.

6 Section 4(f) Determination

Section 4(f) of the United States Department of Transportation Act (USDOT Act) of 1966 (Section 4(f)) applies to all publicly owned parks, recreation areas, wildlife and/or waterfowl refuges, and significant historic sites, whether publicly or privately owned. Section 4(f) requirements apply to all transportation projects funded or approved by USDOT. As a USDOT agency, FRA must comply with Section 4(f). FRA cannot approve a Project that would use a Section 4(f) resource unless it determines there is no other feasible and prudent alternative and the project incorporates all possible planning to minimize harm, or FRA determines the impact to the resource is de minimis. Use of a Section 4(f) property occurs: (1) when land is permanently incorporated into a transportation project; (2) when there is a temporary occupancy of land that is adverse in terms of the statute's preservation purpose; or (3) when there is a constructive use (a project's proximity impacts are so severe that the protected activities, features, or attributes of a property are substantially impaired).

Pursuant to the requirements of Section 4(f), and consistent with 23 CFR Part 774, the EA included a Draft Section 4(f) Evaluation. FRA made the Draft Section 4(f) Evaluation available for public and agency review and comment on October 28, 2022, concurrent with the EA. FRA received no public comments regarding the Draft Section 4(f) Evaluation. FRA based the Draft Section 4(f) Evaluation on preliminary identification and evaluation of historic properties and assessment of effects that had occurred within the APE. Further evaluation following the Draft Section 4(f) Evaluation determined the Project would have no adverse effect on historic resources, and subsequently the California SHPO did not object to this finding on May 22, 2023.

At this time, FRA has not identified a potential use of any resource protected under Section 4(f). Therefore, the Project as designed and with application of avoidance, minimization, and mitigation measures discussed in the Draft EA, would not result in the use of any Section 4(f) resource. Additional measures to minimize harm are not warranted, nor required, in order to avoid a Section 4(f) use. FRA determined a Final Section 4(f) Evaluation is not required, due to no potential use of any resource protected under Section 4(f).

7 Section 7 Determination

Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.) requires federal agencies to consult with the appropriate resource protection agency to ensure that the actions they fund, authorize, permit, or otherwise carry out will not jeopardize the continued existence of any federally-listed species or adversely modify designated critical habitats. In compliance

with this requirement, FRA prepared a Biological Assessment (BA) to analyze the effects of the project on the San Bernardino kangaroo rat (*Dipodomys merriami parvus*; SBKR) and its designated critical habitat, least Bell's vireo (*Vireo bellii pusillus*; vireo), arroyo toad (*Anaxyrus californicus* [*Bufo microscaphus c.*]) and its designated critical habitat, Santa Ana River woolly-star (*Eriastrum densifolium ssp. sanctorum*), and slender-horned spineflower (*Dodecahema leptoceras*). FRA provided the BA and requested formal consultation with the United States Fish and Wildlife Service (USFWS) on July 15, 2022.

After review of the BA and consultation with FRA, USFWS issued a Biological Opinion (BO) on April 6, 2023 stating their determination that the project is not likely to jeopardize the continued existence of the SBKR, arroyo toad, least Bell's vireo or adversely modify arroyo toad or SBKR critical habitats. USFWS also concurred with FRA's finding that the project would not be likely to adversely affect the federally threatened desert tortoise (*Gopherus agassizii*), Yellow-billed Cuckoo (*Coccyzus americanus*), coastal California gnatcatcher (*Polioptila californica*; gnatcatcher), the federally endangered Southwestern willow flycatcher (*Empidonax traillii extimus*), Santa Ana River woolly-star and the slender-horned spineflower or their designated critical habitat.

8 Environmental Commitments

As described in the sections above, FRA has identified measures required to avoid, minimize, and mitigate environmental impacts of the Project. **Attachment A**, itemizes the specific avoidance, minimization, and mitigation commitments that Brightline West is required to implement as part of the Project. The exhibit incorporates commitments that are new since publication of the EA, including commitments related to the new elements of the Selected Alternative described in Section 3.3 of this FONSI and new commitments added in response to public comments.

If FRA provides funding to construct the Project, the environmental commitments listed in **Attachment A** will be incorporated into the applicable funding agreement and implemented by the recipient of federal funds. FRA will monitor compliance with these measures through FRA's oversight of the funding agreement. Other federal agencies may also incorporate these commitments as conditions of applicable authorizations, approvals and permits.

9 Public and Agency Coordination

Throughout the NEPA process, FRA solicited input on the Project from several government and transportation agencies including but not limited to: USACE, FHWA, STB, Yuhaaviatam of San Manuel Nation, and other Federal, state, and local government entities. Extensive coordination was conducted among FRA and Brightline West prior to publication of the EA.

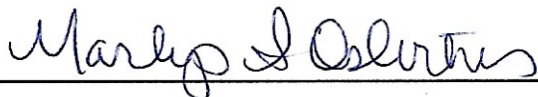
The EA was distributed for a 30-day public and agency review and comment period October 28, 2022, and November 28, 2022. A notice of availability of the EA was distributed via email and postcard to the Project mailing list and local residents in the Project area. The EA was available on FRA's website and Regulations.gov. and its availability was advertised in the Rancho Cucamonga Daily Bulletin, The Sun, and Victor Valley News. FRA held virtual public meetings on the EA on November 12, 2022, and November 15, 2022. The comment period remained open until 5:00 PM on November 28, 2022.

10 Public and Agency Comments

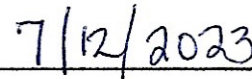
Public and agency comments received on the EA are provided in **Attachment D, "Comments Received on the EA,"** and summaries of the comments with FRA's responses to those comments are provided in **Attachment C, "Summary of and Responses to Comments Received on the EA."** 28 comments were received on the Draft EA, including 6 in the form of verbal testimony via the public hearings. Comments received on the EA generally expressed support of the Project, asked for clarifications on mitigation measures, inquired about coordination with local agencies, or noted concern regarding traffic and transportation impacts.

11 Conclusion

FRA has carefully considered the Project record, including the EA and associated technical reports and analysis; the mitigation measures required; and the written and oral comments offered by agencies, stakeholders, and the public. Based on this consideration, FRA has determined the attached EA satisfies the requirements of NEPA, CEQ's implementing regulations, FRA's Environmental Impact and Related Procedures and other applicable environmental requirements, and the Selected Alternative, as presented and assessed in the EA, will not significantly impact the quality of the human environment. In addition, the EA identifies measures, included in this FONSI, that would avoid, minimize, and/or mitigate the adverse effects of the Selected Alternative. Based on this analysis FRA concludes that the Selected Alternative is technically and economically feasible and an environmental impact statement is not required for the Project.



Marlys Osterhues
Director
Office of Environmental Program Management
Federal Railroad Administration



Date

For further information regarding this document, please contact:

Matthew Mielke
Project Manager
USDOT Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Attachments:

- Attachment A. Environmental Commitments
- Attachment B. Errata to EA
- Attachment C. Response to Comments
- Attachment D. Comments Received on EA
- Attachment E. Biological Opinion (USFWS)
- Attachment F. Project Footprint Drawings