

U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WESTERN-PACIFIC REGION

RECORD OF DECISION

**BART-OAKLAND INTERNATIONAL AIRPORT CONNECTOR
Final Environmental Impact Statement**

OAKLAND INTERNATIONAL AIRPORT
OAKLAND, ALAMEDA COUNTY, CALIFORNIA



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GENERAL INFORMATION ABOUT THIS DOCUMENT

WHAT'S IN THIS DOCUMENT? This document is the Federal Aviation Administration's (FAA) Record of Decision (ROD) for proposed construction and operation of the Bay Area Rapid Transit (BART) to Oakland International Airport (OAK) connector project. This document includes the agency determinations and approvals for those proposed Federal actions described in the Final Environmental Impact Statement prepared by the Federal Transit Administration (FTA) in 2002 and adopted by the FAA in November 2009. This document discusses all alternatives considered by FAA in reaching its decision, summarizes the analysis used to evaluate the alternatives, and briefly summarizes the potential environmental consequences of the Proposed Action and the No Action alternative, which are evaluated in FAA's ROD. This document also identifies the FAA's environmentally preferred alternative. This document identifies applicable and required mitigation.

BACKGROUND. In 2001, the FTA prepared a Draft Environmental Impact Statement for the proposed BART-OAK connector project. The EIS addressed the potential environmental effects of the proposed connector project and reasonable alternatives to that proposal. The DEIS was prepared in accordance with the requirements of the National Environmental Policy Act (NEPA) [Public Law 91-190, 42 U.S.C. 4321-4347], the implementing regulations of the Council on Environmental Quality (CEQ) [40 CFR Parts 1500-1508]. FTA prepared responses to comments received on the 2001 DEIS. These responses to comments are included in FTA's 2002 Final EIS (FEIS). FTA consulted with FAA in the preparation of the EIS; however, FAA was not a designated Cooperating Agency under 40 CFR 1501.6.

FTA approved its ROD on the proposed project on July 16, 2002. The proposed project was not built due to a lack of funding. In 2009, funding became available through the FTA. The Port of Oakland submitted an application to the FAA to impose a Passenger Facility Charge to help fund the portion of the proposed connector project on the airport. On November 19, 2009, FAA adopted the FTA's 2002 FEIS. Since the FAA was not a cooperating agency, FAA had to adopt the FTA's document and recirculate it for public comment as a FEIS. FAA has determined the 2002 FEIS meets the requirements of FAA Orders 1050.1E, *Environmental Impacts: Policies and Procedures* and 5050.4B, *National Environmental Policy Act, Implementing Instructions for Airport Actions*.

Copies of the Adopted FEIS were made available for public review and comment from November 27, 2009 to December 28, 2009 at various libraries in Alameda County, the FAA Headquarters Office in Washington, D.C., FAA's Western-Pacific Regional Office in Hawthorne, California; the FAA's Airports District Office in Burlingame, California; and at the administrative offices of the Port of Oakland. FAA received one comment letter from the U.S. Environmental Protection Agency. FAA prepared responses to those comments which are included in Appendix A to this ROD.

WHAT SHOULD YOU DO? Read the FAA's Record of Decision to understand the actions that FAA intends to take relative to the proposed BART-OAK connector project.

WHAT HAPPENS AFTER THIS? BART and the Port of Oakland may begin to implement the Proposed Action.

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Final Environmental Impact Statement**

**OAKLAND INTERNATIONAL AIRPORT
CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA**

I. INTRODUCTION

This document serves as Record of Decision (ROD) for the Federal Aviation Administration's (FAA) proposed action to unconditionally approve a portion of the Airport Layout Plan (ALP) for Oakland International Airport (OAK) and approve use of Passenger Facility Charge (PFC) revenue for construction of the on-airport portion of a transit connector project linking the airport with the local San Francisco Bay Area Rapid Transit District (BART) rail transit system. The airport is owned and operated by the Port of Oakland (Port). The ROD is based on the environmental information disclosed in the March 2002 Final Environmental Impact Statement (EIS) prepared by the Federal Transit Administration (FTA) and an FAA Written Re-evaluation completed on 19 November 2009. The FAA has prepared the Written Re-evaluation pursuant to 40 CFR 1506.3 and FAA Order 5050.4B, *National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions*, paragraphs 1005 and 1401, and determined that the 2002 Final EIS prepared by the FTA continues to provide accurate, applicable and valid information to support FAA's proposed federal actions. The FAA submitted a letter to the U.S. Environmental Protection Agency (EPA) on 19 November 2009, indicating the FAA was adopting the FTA Final EIS and also re-circulated FTA FEIS. EPA published the notice indicating FAA's adoption of the FTA FEIS in the Federal Register on 27 November 2009. The FAA published a notice on 27 November 2009, in the Oakland Tribune, which is a newspaper of general circulation in the project area, notifying the public of the FAA's adoption of the FTA FEIS. The FAA also made copies of the FEIS available on compact disc in local libraries in the project area. Several comments from the U.S. Environmental Protection Agency were received. FAA is providing responses to those comments in Appendix A of this ROD.

The proposed airport connector project, described in more detail below, would operate an Automated Guideway Transit (AGT) system on an exclusive, approximately 3-mile long right-of-way. The AGT would provide a link between the existing BART Coliseum station and the airport terminal buildings. Approximately one mile of the connector project would be built on OAK airport property. The connector project would improve access to OAK by using a direct and convenient connection to the existing regional BART rail transit system. FAA believes the project, as currently proposed, remains essentially the same as originally proposed and evaluated in the FTA 2002 Final EIS.

The proposed connector project is subject to environmental review requirements under both federal requirements for preparation of an Environmental Impact Statement (EIS) under NEPA and state requirements for preparation of an Environmental Impact Report (EIR) under the California Environmental Quality Act (CEQA). A joint EIS and EIR for the connector project was previously prepared by the FTA as the lead federal agency and by BART as the lead state agency, to comply with their respective NEPA and CEQA requirements. BART and FTA published a Final EIR / Final EIS in March 2002, which selected an Automated Guideway Transit (AGT) alternative as the preferred alternative. The document is identified as a joint FEIR/FEIS, however, the FAA is utilizing the analysis and information applicable for the EIS, and the document will be referred to as the FEIS in this ROD. While FAA is listed as one of the agencies that FTA completed coordination during preparation of the EIS, FAA was not a designated Cooperating Agency pursuant to Title 40, Code of Federal Regulations (CFR) Part 1501.6.

The President's Council on Environmental Quality (CEQ) regulations implementing NEPA allow a federal agency to adopt another federal agency's environmental impact statement as long as the documentation meets the standards under the NEPA regulations (40 CFR 1506.3). Since the FTA FEIS is over three years old, a Written Re-evaluation was prepared and FAA conducted an independent review of the EIS material. Based on the Written Re-evaluation, FAA determined that the data and analysis contained in the 2002 BART-OAK FEIS, prepared by the FTA, adequately and accurately analyzed the potential project impacts, and the information remains current and valid. Further, there are no significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. The project remains essentially similar to that proposed and analyzed in the FTA EIS. The FAA has determined there are no substantial changes that have occurred. Therefore, no supplemental analysis was necessary.

This ROD and the 19 November 2009, Written Re-evaluation reaffirms the level of analysis and conclusions drawn from the March 2002 FEIS that evaluated the environmental impacts of the entire approximate 3 mile airport connector project, including the on-airport portion, and selected the AGT system with alignment Option A as the FTA's Preferred Alternative. The nature and extent of the FAA's decision is clearly stated in the November 19, 2009, Written Re-evaluation and this ROD, which is a decision document.

II. PROJECT INFORMATION

In August 2001, BART and the FTA published a Draft EIR/Draft EIS that evaluated three alternatives for the connector project: (1) a No Action Alternative under which the current AirBART bus service would continue, (2) a Quality Bus (QB) Alternative providing improved bus service and (3) an AGT providing an exclusive guideway for transit vehicles. The March 2002 FEIS provided a focused environmental analysis of the AGT as the preferred alternative and compared it to the No Action Alternative. This is consistent with FTA procedures for final environmental documents.

The FTA's Preferred Alternative in the FEIS is to construct an AGT system between the BART Coliseum Station and OAK along an approximate 3 mile exclusive guideway for transit vehicles. The AGT system considers an array of transit technologies and AGT vehicles can operate on rubber tires or steel wheels or be air-cushioned or magnetically levitated. The system will run along a dual guideway, and does not require a vehicle operator. A specific technology has not been selected, because BART wants to encourage competition among various vendors. The proposed route would proceed south from the BART Coliseum station along the Hegenberger Road corridor. South of Doolittle Drive on OAK property, the alignment would run between Airport Drive to the west and the Lew F. Galbraith Municipal Golf Course to the east. Past the golf course, the AGT alignment would proceed southwest to its terminus at the terminal parking lot. The Port initially planned a double-deck loop roadway providing access to a large and consolidated airport passenger terminal. Inside the loop road, the Port planned a five-level parking structure. The original airport AGT was to be integrated into the west side of the parking structure.

The AGT vehicles would operate primarily in an elevated guideway, thus providing the vehicles with their own exclusive right-of-way separate from other vehicular traffic along the route. For the route on the airport, generally adjacent to the Lew F. Galbraith Municipal Golf Course, the alignment would run either below or at grade.

BART adopted the Preferred Alternative on 28 March 2002, and the FTA as the lead Federal agency for the EIS, issued their ROD for the entire project on 16 July 2002, determining that the NEPA requirements for the OAK connector project have been satisfied. Following certification of the project by BART and issuance of the ROD by FTA in 2002, more precise engineering and design was undertaken. Also the Port produced a series of the airport terminal area design changes, which resulted in modifications to the preferred alternative. The multi-story parking structure has not been built, and the plan for the double-decked loop road has been replaced by a plan for a series of widened roadways at surface level.

BART prepared a Draft Addendum to the BART-Oakland International Airport Connector FEIS in

November 2006 and submitted the document to FTA for review. The 2006 Addendum indicates there were no substantial changes proposed in the project that would require major revisions to the previous EIR or involve new significant environmental effects. Figure 1-2 in the 2006 Addendum shows the areas of change and that only one of the changes affects the on-airport portion of the connector project. This change will result in a modified location for the airport AGT station within the airport parking lot, since the Port is no longer considering building a new parking structure. The AGT station is now planned for a more central location in the parking lot between Terminals 1 and 2 as shown in Figure 2-1a of the 2006 Addendum.

The OAK AGT station platform would be an 81 foot high maximum freestanding structure over the at-grade loop road and approximately 145 feet long and 30 feet wide. Roadway clearance would be 17 feet. Similar to the 2002 Preferred Alternative, the station would be connected to the airport terminal by a 64-foot long covered walkway over the airport loop road. Figures 2-2 and 2-4 in the 2006 Addendum illustrates the plan, elevation, and section for the revised OAC Airport AGT Station. The power distribution system substation at the airport end of the connector would be located under the AGT guide way approximately 60 feet north of Neil Armstrong Way. The power distribution system substation would be a concrete building approximately 1,000 square feet in size, with a maximum width of 26 feet (to correspond to the width of the guide way) and height of approximately 14 feet. Primary commercial power lines would enter the substation through underground duct banks, and secondary power feeders would exit the substation to the guide way through steel conduits through the substation side or roof.

On 2 February 2007, the BART Board of Directors approved the project changes and adopted the 2006 Addendum to the FEIS pursuant to CEQA. The FTA conducted an independent review of the Addendum under 23 CFR Part 622 Section 771.130 (c). FTA issued a letter to BART dated 20 March 2007, stating that FTA concluded that the proposed design changes did not have new significant impacts to planned growth or land use for the area; do not cause the relocation of significant numbers of people; do not have significant impacts on natural, cultural, recreational, historic, or other resources; do not have significant impacts on traffic or travel patterns; and do not otherwise individually or cumulatively, have any other significant impacts. FTA concurred with BART's findings and determined that the proposed preferred alternative modification (design changes) did not present new substantial impacts, new information, or new circumstances that would warrant preparation of a Supplemental EIS. FTA has advised FAA that FTA considers the 2006 Addendum a written re-evaluation and determined no further federal environmental documentation for FTA's purposes are necessary.

Funding constraints have delayed construction of the project until this year, when BART secured American Reinvestment and Recovery Act (ARRA) funding to pay for a portion of the airport connector project. The Port has submitted an application to impose a Passenger Facility Charge (PFC) fee on airport passengers to help fund the construction of the on-airport section of the connector project. FAA has also reviewed the current project information and concluded that the proposed project is essentially the same as that evaluated in the 2002 Final EIS.

III. FAA FEDERAL ACTIONS

The Federal actions that are the subject of this ROD include the following:

- Unconditional approval of the portion of the Airport Layout Plan (ALP) that depicts the proposed BART-OAK connector on OAK property pursuant to 49 U.S.C. Section 40103(b), 44718 and 47107(a)(16) and 14 CFR Part 77. The ALP depicting the proposed improvements has been processed by the FAA to determine conformance with FAA design criteria and implications for federal grant agreements (refer to 14 CFR Part 77 and 157). FAA has determined that the proposed project is consistent with existing airspace utilization and procedures. The ALP was evaluated under airspace case numbers 2009-AWP-334-NRA through 2009-AWP-357-NRA and determined it would not affect the North Field operations. Based on airspace case No. 2006-AWP-371-NRA it would be below restricted airspace.

- Determine under 49 U.S.C. § 44502(b), that the airport development is reasonably necessary for use in air commerce or in the interests of national defense.
- Determination of the effects of the proposed project upon the safe and efficient use of navigable airspace pursuant to 14 CFR Part 77. The FAA must determine the proposed BART-OAK connector, as proposed by BART and the Port of Oakland, is consistent with the existing airspace utilization procedures.
- Continued close coordination with the Port of Oakland and appropriate FAA program offices, as required, to maintain aviation and airfield safety during construction pursuant to 49 U.S.C. § 44706.
- Approval of an amendment to the airport certification manual pursuant to 14 CFR Part 139, to maintain aviation and airfield safety during construction, and, as required, to the airport security plan pursuant to 14 CFR Part 107 (49 U.S.C. § 44706).
- Authorizing an airport sponsor to use Passenger Facility Charges (PFC).
- Determination of eligibility for federal assistance under the Federal grant-in-aid program authorized by the Airport and Airway Improvement Act of 1982, as amended (49 USC 47101 et. seq.).
- Approval of an airport sponsor's request under 49 U.S.C. Sections 47107(b), 47113 or 47107(a)(13), to grant a right-of-way on OAK to carry out an action under 49 USC Chapter 471, Subchapter I, at a public-use airport or to support the airport's operations.

IV. PROJECT PURPOSE AND NEED

The purpose of the proposed Connector project is to construct and operate a high quality and extremely reliable transit service linking the BART Coliseum Station with OAK by replacing the existing less reliable AirBART shuttle bus service. The Connector is envisioned as another important link in a regional transit network that would allow people from throughout the San Francisco Bay Area to access either OAK or San Francisco International Airport (SFO) using BART trains. Implementation of the Connector would greatly enhance the reliability and quality of the BART service to and from OAK and would complement the BART service at SFO.

The need for the Connector project is based on recognition of existing and future transportation constraints in the study area. The anticipated future public and private development in the Coliseum and OAK area, increased air travel growth at OAK, and related congestion along roadways that serve the airport and study area establish an overarching need to improve public transportation linkages in the area. Improvements to the existing transit service to OAK would encourage some current motorists to use BART services to OAK, thereby providing some relief to the congested traffic conditions in the study area and beyond.

V. ENVIRONMENTAL CONSEQUENCES AND MITIGATION

The environmental analysis from the March 2002 BART-OAK FEIS focused on the AGT as the Preferred Alternative for the proposed airport transit connector project and compared it to the No Action Alternative. As indicated above, there were some modifications to the location of the BART station in the OAK parking lot as identified in the November 2006 Addendum to the *BART-Oakland International Airport Connector FEIS*, and that this and other changes outside of the airport property for the connector project were determined by FTA and BART as not creating new significant impacts. The project as currently proposed remains essentially the same as analyzed in the 2002 FEIS.

The airport connector project is not expected to have an affect on the amount or type of aviation operations at OAK, therefore aviation operations are not part of this NEPA evaluation.

AIR QUALITY

The FAA has a responsibility under NEPA to include sufficient analysis to disclose the impacts of the proposed action on the attainment and maintenance of air quality standards and a responsibility to assure that the action conforms to the applicable State Implementation Plan (SIP).

As discussed in Section 3.2 of the FEIS, the proposed BART-OAK Connector would generate fewer regional and local emissions of criteria pollutants (e.g., ozone, carbon monoxide, nitrogen dioxide, sulfur oxides) because the project would divert passengers from motor vehicle trips to and/or from OAK. Motor vehicles are the primary source of these criteria pollutants. The AGT would result in lower net emissions than the No Action Alternative, as shown in Tables 3.12-4 and 3.12-10 of the FEIS. Since regional motor vehicle emissions would decrease with implementation of the BART-OAK Connector project, emissions from motor vehicles are also expected to decrease. No analytical models were available to calculate PM₁₀ concentrations from motor vehicles, and PM₁₀ levels are qualitatively evaluated on the basis of project-specific regional analysis. The regional emissions for PM₁₀ under the AGT for all analysis years is less than those under existing conditions and result in reductions to Green House Gas emissions.¹ The AGT would result in a less air quality impacts as compared to the No Action Alternative. The project's cumulative affects would result in less overall emissions as compared to the No Action Alternative as shown in Table 3.12-3. Construction mitigation measures in accordance with the Bay Area Air Quality Management District guidance will also be implemented to ensure that project construction emissions are minimized. Therefore, the Preferred Alternative would not result in any significant impacts.

The Connector project is included in the 2001 Transportation Improvement Program (TIP) adopted by the Metropolitan Transportation Commission (MTC) on 27 September 2000 with conformity findings (MTC Resolution No. 3300) and in the 2001 Regional Transportation Plan (RTP) adopted by MTC on 19 December 2001 without conformity findings (MTC Resolution Nos. 3425 and 3427). The EPA approved the motor vehicle emissions budget in the revised 2001 Bay Area Ozone Attainment Plan on 14 February 2002. MTC made findings of conformity for the 2001 RTP based on the approved motor vehicle emissions budget in the revised 2001 Bay Area Ozone Attainment Plan on March 15, 2002 (MTC Resolution No. 3432). The proposed project was included in the 2005 RTP and was included in MTC's 2009 RTP that was adopted by MTC on 22 April 2009. The current RTP is described by MTC as the *Transportation 2035 Plan for the San Francisco Bay Area*, which specifies how some \$218 billion in anticipated federal, state and local transportation funds will be spent in the nine-county Bay Area during the next 25 years. The BART- OAK Connector project is specifically identified in the 2009 plan on Page 11 of Appendix 1. "Reference number: 21131 "Build a BART Oakland Airport Connector between Coliseum BART station and Oakland International Airport."

Since the proposed BART-OAK connector project is included in the current RTP, the project complies with Clean Air Act conformity requirements for transportation projects.

COASTAL RESOURCES

The project is not subject to the Coastal Barriers Resources Act, since this Act applies primarily to projects along the Atlantic and Gulf coasts and Great Lakes. The project is also not located in the coastal zone as defined by the Coastal Zone Management Act (CZMA). It was determined that the proposed project would not require any placement of fill, dredging, or any other work inside the 100 foot shoreline band of the Bay Conservation Development Commission (BCDC), which has jurisdiction over San Francisco Bay waters and shorelines, (see page 3.10-12 of FEIS). Therefore, a CZMA consistency determination by BCDC is not required.

¹ The U.S. EPA issued attainment status designation for the new 35 micrograms/m³ PM_{2.5} standard on 25 December 2008. Alameda County was designated as nonattainment, and the designation would normally be effective 90 days after publication of the regulation in the *Federal Register*. However, on 20 January, 2009, President Obama, through his Chief of Staff, issued a memorandum to all Federal Government Department heads ordering a freeze on all pending federal rules, which has delayed the exact date of the designation. Subsequently, on 13 November 2009, U.S. EPA published a Federal Register notice (70 FR 58688) establishing the PM_{2.5} air quality designations for most areas of the United States, and Alameda County is identified as an area in nonattainment. These designations become effective 30-days after the publication of this notice.

COMPATIBLE LAND USE

The AGT is designed to go under Doolittle Drive, prior to entering OAK airport property. South of Doolittle Drive as the AGT alignment crosses OAK property, the alignment would run at grade adjacent to the east side of Airport Drive, between the Lew F. Galbraith Municipal Golf Course. The alignment was identified by the Port in an updated Airport Layout Plan, which was conditionally approved by the FAA on 18 September 2006, pending further airspace and environmental reviews. The FAA conducted an airspace evaluation (Airspace Case Nos. 2009-AWP-334-NRA through 2009-AWP-357-NRA) and issued a letter dated 29 June 2009, indicating there were no objections to the AGT proposal in regards to the safe and efficient use of airspace at the airport.

The AGT would not use any land from the Lew F. Galbraith Golf Course. The proposed project would not conflict with recreational activities at the restored Lew F. Galbraith Golf Course and Bay Trail, because these areas are located east of the alignment (also discussed in Visual and 4(f) sections). South of the Airport Drive/Air Cargo Road intersection the AGT would travel on an aerial guide way parallel to Airport Drive into an AGT station adjacent to an expanded and relocated terminal complex. The land uses in this area are airport/transport related uses and, therefore, would be compatible with AGT operations. (See FEIS Section 3.2 and BART-OAK Addendum Section 3.2). There are no significant impacts to compatible lands uses as a result of the AGT project.

CONSTRUCTION IMPACTS

The restricted airspace on OAK airport property limits the height of construction activities within the vicinity of the runways. The AGT alignment is in the vicinity of the North Field runways and to prevent any obstacles to air navigation, pile driving techniques would be required that do not extend vertically into the obstacle free zone prescribed by Federal Aviation Regulations, Part 77. Technologically advanced alternatives to traditional driven piles would be required. All work would be coordinated with the FAA and OAK during portions of construction.

A 35-foot construction corridor would temporarily encroach into the Lew F. Galbraith Golf Course to the east and Airport Drive to the west. In addition, coordination with OAK would be necessary to minimize impacts to traffic traveling to and from the airport. Construction of the AGT station and guide way at OAK would likely require temporary traffic lane closures. Depending on the duration of the traffic lane closures, the extent of those lane closures, the disruption to local traffic circulation could result in traffic impacts during the construction activities.

The overall duration of construction would depend on the number of crews working on the project. Crews could work simultaneously along the elevated, at-grade, and tunnel portions of the alignment. Actual ground level construction probably would take approximately two years followed by a third year of operating system equipment installation and test and acceptance activities.

To offset the construction impacts, mitigation measures to maintain adequate vehicular circulation and parking would be required. BART will be required to coordinate with OAK to assure that the traffic management plans are coordinated with the construction activities. The Construction Traffic Management Plan, prepared under Mitigation Measure C-TR-1(ii), shall include measures to address construction-related impacts on traffic at OAK. BART will coordinate with OAK to ensure that the pedestrian management plans for the construction of the Airport AGT station are implemented. BART shall require the Contractor to provide temporary walkways recommended under Mitigation Measure C-TR-2(i) in consultation with OAK.

To mitigate the potential construction light and glare effects, BART will limit maximum lighting standards for staging areas and construction sites. The lighting shall focus illumination downward to restrict light from extending beyond the construction boundaries. This measure shall be incorporated into the construction bid documents to ensure that the contractors conform to these lighting specifications.

With the necessary measures to minimize the construction-related impacts, no significant impacts to

airport aviation, airport traffic, parking and pedestrians are anticipated. (See FEIS Section 3.16)

DEPARTMENT OF TRANSPORTATION ACT SECTION 4(F) and LAND AND WATER CONSERVATION FUND ACT, SECTION 6(F)

The proposed action would not affect 4(f) resources, such as publicly owned land from a public park, recreational area, or wildlife and waterfowl refuge of national, State, or local significance or land from a historic site of national, State or local significance. The AGT alignment has been modified to eliminate any taking of public parklands or effecting historic resources considered eligible for the National Register of Historic Places. The parklands and trails in the project vicinity that has the potential to be affected under Section 4(f) include the Lew F. Galbraith Golf Course, the San Leandro Creek Trail, and the proposed extension of the Bay Trail. The Bay Trail adjacent to Lew F. Galbraith Golf Course and AGT alignment has been completed since the 2002 FEIS. The proposed alignment along Airport Drive does not impinge on the Bay Trail. None of the alignment segments with project modifications are located adjacent to any of the three park resources. The proposed BART-OAK Connector project would not have any significant impacts or require mitigation for 4(f) resources (see FEIS Section 5). During construction there would be a temporary use of the golf course property, which will require mitigation identified in Section 5.3.3 of the FEIS. The FTA's July 2002 Record of Decision acknowledges that the Section 4(f) consultation has been coordinated with the appropriate state and local officials and that the Department of Interior has no objections to the project. The 2006 Addendum notes that no new recreational areas have been designated.

The Port of Oakland owns the Lew F. Galbraith Golf Course. FAA has determined the Port of Oakland has not received any funds from the Land and Water Conservation Fund for use at the Golf Course. The Bay Trail in the Tidewater Estuary Park is listed by the National Park Service in 2004 Annual Report as a Section 6(f) property that received funds from the Land and Water Conservation Fund. As noted above the proposed BART-OAK Connector project will not affect the Tidewater Estuary Park. FAA has determined the proposed BART-OAK connector project will not affect any properties protected by Section 6(f) of the Land and Water Conservation Fund Act.

FARMLANDS

There are no farmlands on OAK and the airport is designated for industrial use per the City of Oakland zoning designations. Therefore, the proposed development would not have the potential to affect any farmlands, (see FEIS Section 3.2.2).

FISH, WILDLIFE, AND PLANTS

The proposed action on OAK property would not adversely affect federally-listed endangered or threatened species of flora and fauna. There is no designated critical habitat located within OAK property and the Preferred Alternative would operate on already disturbed urban landforms. Since the completion of the 2002 FEIS, several additional federally listed threatened or endangered species and designations of critical habitat have been made in the Alameda County Region. FAA has reviewed the Revised Draft Runway Safety Area Study – Phase 2, dated August 2008. This study includes recent Biological Survey information conducted at Oakland International Airport. The Revised Draft Runway Safety Area Study indicated that three California least terns, a federally listed species were observed near Runway 11 in the southern portion of the airport. The proposed BART-OAK connector project does not extend into the southern portion of the airport. The proposed project is to be built along the airport access road within the existing right-of-way that is maintained and into the automobile parking lot for the terminal building. There are no listed threatened or endangered species on the highly developed route of the proposed project or federally designated critical habitat for threatened or endangered species would be affected by the proposed action. As a result, the development on OAK property would not result in a significant individual or cumulative impact on any listed species or habitat, (see FEIS Section 3.10). Pursuant to FAA Order 1050.1E, FAA has determined the proposed project will not affect any federally listed threatened or endangered species. Therefore, formal consultation with the U.S. Fish and Wildlife Service, pursuant to Section 7 of the Endangered Species Act of 1973, is not required.

FLOODPLAINS.

The proposed BART-OAK project development on OAK does not encroach on a 100-year floodplain, since these areas are restricted to existing channels and land immediately adjacent to the channel banks. The project would not result in any significant impacts on the 100-year floodplains. To offset any potential impacts during construction, a Storm Water Pollution Prevention Plan would be implemented, (see FEIS Section 3.9.3).

HAZARDOUS MATERIALS, POLLUTION PREVENTION, AND SOLID WASTE

Operation of the preferred alternative would not involve transport, use or disposal of hazardous materials that would create a potentially significant hazard to the public or the environment. Waste products would be generated and processed at a maintenance facility located outside of the airport. There are no significant impacts associated with hazardous material and solid wastes from this project, (see FEIS Section 3.14.3).

HISTORIC, ARCHITECTURAL, ARCHEOLOGICAL, AND CULTURAL RESOURCES

There are no archeological resources or historic structures in the project Area of Potential Effect, and the project would not have any effect on cultural resources. The North Field of OAK is a designated by the City of Oakland as Historic Landmark District, exclusive of its structures and facilities. The Oakland City Council passed Resolution 1979-8 and City Ordinance 9872, which allowed alterations to the structures and facilities of the Airport while establishing the North Field as a whole to be a Historic Landmark District. The California State Historic Preservation Officer (SHPO) concluded that none of the structures identified within the OAK area of potential effect is of the quality of character to be considered a historic property. The area surveyed and evaluated by FTA encompassed the alignment and station locations proposed by the Connector alternatives on OAK property. The preferred alternative would not result in any effect upon significant historic resources. The mitigation measure C-CR-2(ii) (conduct spot checks for Archeological resources during construction activities) requires that a qualified Archaeologist be retained by BART to conduct spot-checks during ground distributing activities in the project corridor. If any potentially significant materials are found, a cultural resources management plan for subsurface exploration would be prepared. If any potentially significant materials were found, a cultural resources management plan for subsurface exploration would be prepared, (see FEIS Section 3.5).

LIGHT EMISSIONS AND VISUAL IMPACTS

OAK is currently well lit by the many buildings and traffic, the Airport AGT Station would increase the ambient light levels at OAK. This increase in exterior lighting is not expected to create a significant glare effect at OAK. BART would use the following measures to reduce the light and glare effects of the AGT, lighting fixtures to be designed to control light intensity on adjacent land uses, the lights used inside the AGT vehicles shall be of the necessary wattage or candle foot power necessary for passenger safety and comfort while not affecting adjacent land uses, use materials with low reflective capabilities for the body of the AGT vehicle, and measures such as tinting of glass or using a substitute material to achieve a daylight reflective factor that would not cause significant glare can be implemented by the contractor.

The AGT at-grade alignment on the east side of Airport Drive adjacent to the Lew F. Galbraith Municipal Golf Course would be visually consistent with the adjacent Airport Drive area; passing AGT vehicles would be seen with other vehicles moving along the roadway. As a result, the AGT system would not conflict with the visual unity of this area and the motorists and golfers would be generally unaffected by the guide way.

The AGT station is currently planned as a freestanding, elevated structure in the parking lot. As noted in the FEIS, the aerial guide way and Airport AGT Station would contribute to the overall intensity of development at the airport, thus contributing to building mass and altering the visual setting in the Airport terminal area. In addition, the visual setting for the Airport terminal area currently is defined by

transportation-related uses; parking, loading and unloading zones, and shuttle services. By association, the elevated AGT guideway and AGT vehicles would not appear out of character or incompatible with the surroundings. There are no significant impacts to airport lighting or views of the AGT station and vehicles, (see FEIS Sections 3.4).

NATURAL RESOURCES AND ENERGY SUPPLY

The FEIS evaluated the proposed project's energy use, demand and supply of energy resources, and energy consumption during operation, maintenance, and construction. During operation of AGT, energy would be required for vehicle propulsion, station operation, and maintenance of vehicles and associated equipment. Different energy sources including electricity, natural gas, gasoline, diesel, methanol, and fuel oil could be used to satisfy operational requirements. While the AGT would consume energy, it would also have the offsetting positive effect of reducing the number of auto trips made to and from OAK. The FEIS determined that the preferred alternative construction would increase transit use to OAK and reduce the number of vehicle miles traveled (VMT) by automobiles. This decrease of VMT would result in a net regional reduction. The net result is a beneficial effect. It should also be noted that currently gasoline prices have risen considerably since 2002 and that the overall benefits will likely be even greater than originally identified.

Due to the uncertainty over the region's energy supply and energy transmission system, any increase in the demand for electric energy would be considered a potentially significant effect on the electric energy supply. The electric-powered AGT could have a significant effect on the electric energy supply, especially during very hot summer months when electricity demand could exceed the electrical supply available. A number of energy saving features would be incorporated into the AGT system. These would include a composite third rail (better conductivity is more energy efficient) and lightweight vehicles (less energy required for acceleration and deceleration). The AGT would shift a significant number of passengers from automobiles and light duty trucks to the AGT, reducing the overall vehicle miles traveled and would have a positive overall effect on the use of petroleum-based fuels, (see FEIS Section 3.13).

NOISE

Ambient noise in the vicinity of the project corridor is dominated by heavy vehicle traffic on Interstate 880 as well as traffic on local roads such as Hegenberger Road, Airport Drive, and Doolittle Drive. Aircraft at OAK are another source of ambient noise in the vicinity of the airport alignment. The preferred alternative in the area of OAK starts between Terminals 1 and 2, would run over the existing daily parking lot until it crosses the Airport Road loop road. No noise sensitive receptors are located at OAK and no vibration-sensitive receptors are close enough to be affected by AGT operations. In the vicinity of the Lew F. Galbraith Golf Course the noise would not exceed the BART design criteria for passby noise (80 dba Lmax for recreational uses). Therefore, the preferred alternative would not have any significant impacts resulting from noise, (see FEIS Section 3.11).

SECONDARY (INDUCED) IMPACTS

Examples of induced or secondary impacts include shifts in population movement and growth, public service demands, and changes in business and economic activity to the extent influenced by the development. The Preferred Alternative would result in substantial investment in the project area and result in terms of direct and indirect jobs that is anticipated and desired in accordance with the City of Oakland General Plan. The operation of the BART Station at the airport may increase the need for emergency and police services. This would be mitigated by incorporating design criteria to support fire protection and emergency response, and also incorporating BART police services at the Airport Station. There are no significant impacts due to secondary impacts, (see Sections 3.3.3 and 3.6.3).

SOCIOECONOMIC IMPACTS, ENVIRONMENTAL JUSTICE, AND CHILDREN'S ENVIRONMENTAL HEALTH AND SAFETY RISKS

There are no homes or businesses on the OAK property that would be affected by the Preferred

Alternative. No minority, low-income, or children would be impacted. The off-airport portion of the AGT would require an easement for public streets and acquisition of all or portions of 10 properties. The FEIS indicated there are no environmental justice impacts to the residential communities along the route of the Preferred Alternative. A permanent operating easement would be required for the on-airport alignment of the AGT and would be subject to FAA regulations.

There would not be any significant impacts, since the preferred alternative would not have any affect on environmental justice communities, and would not contribute to potential cumulative effects resulting from other foreseeable development projects in the connector project corridor, (see FEIS Sections 3.3.3 and 3.15.3)

WATER QUALITY

The proposed action at OAK would require maintenance activities that could affect surface water quality via point discharges to storm drains or groundwater via infiltration from the surface. The maintenance facility would be located outside of the airport and BART would be required to obtain a Storm Water General Permit and a Storm Water Pollution Prevention Plan (SWPPP) to reduce storm water pollution. The SWPPP is required by the Clean Water Act and it must be approved by the Regional Water Quality Control Board. The SWPPP will recommend site-specific Best Management Practices (BMPs) that reduce storm water pollution and include housekeeping practices intended to reduce pollutant loading at the maintenance facility, and techniques and equipment to collect and treat storm water pollution. The potential effects of storm water pollution would also be reduced by preparing a storm water pollution prevention plan prior to any construction of the AGT. The FEIS analysis has determined that the AGT would not have a significant effect on water quality.

The cumulative effect of growth in the project area will require that each project would be subject to site-specific recommendations to mitigate flooding and water quality degradation hazards, and to withstand potential hydrological effects. The preferred alternative would not contribute to hydrological impacts that would be cumulatively considerable, (see FEIS Section 3.9.3)

WETLANDS

The FAA prepared an Environmental Assessment (EA) and issued a Finding of No Significant Impact in December 2000 for the OAK Airport Development Program. As part of the EA evaluation, a wetland delineation was performed for a portion of the wetlands addressed in the 2002 FEIS, between Doolittle Drive and the OAK terminal. An OAK-Airport Development Program (ADP) wetlands delineation was verified by the U.S. Army Corps of Engineers (Corps) as part of the ADP, and Permit Number 21590S was issued under Section 404 of the Clean Water Act to fill 7.76 acres of wetlands and other waters of the U.S. for landside expansion at OAK (3.32 acres of seasonal wetland, 3.7 acres of drainage channels, 0.72 acre where unauthorized fill was previously placed into wetlands in 1988, and 0.02 acre of tidal creek shaded by the 98th Avenue Bridge for landside expansion at OAK). The fill of wetlands and waters of the United States as a result of the former ADP project occurred in approximately 12 areas on OAK property south of Doolittle Drive and one area along 98th Avenue. Three affected areas are in the vicinity of the proposed AGT alignment; all of these areas are along Airport Drive and the golf course and mitigation sites were approved by the Corps as part of its issuance of the 404 permit. The 404 permit was for the Port of Oakland's (Port) ADP, which included a 35-foot easement for use by the Connector project. Since the AGT guide way would be aligned entirely within the project limits of the ADP in the vicinity of the Airport Drive drainages, the AGT in this segment of the project corridor would not be expected to affect wetlands beyond those already authorized to be filled under Permit Number 21590S.

South of Doolittle Drive, the preferred alternative surfaces to grade east of Airport Drive along the Lew F. Galbraith Golf Course. The at-grade AGT guide way in this segment of the corridor would lie entirely within the area for which the Port has received a permit to fill wetlands. Pursuant to Corps Permit Number 21590S, the Port is was authorized to fill wetlands in order to construct the ADP. Since the ADP included right-of-way for the Connector, the AGT would not permanently fill any wetlands that are not already covered by the Corps permit. As a result, there would be no impact to wetlands in this

portion of the corridor for which prior Clean Water Act permitting and mitigation requirements have not been completed. No additional wetlands beyond those for which fill authorization has been received would be affected by the relocation and construction of the AGT Station within this area. As a result, development of the project on OAK property, in combination with the eight other Connector projects, would not be expected to have significant cumulative impacts on wetlands, (see BART-OAK FEIS Sections 3.10.2 and 3.10.3)

WILD AND SCENIC RIVERS

The proposed development would not affect a designated Wild and Scenic River. The nearest wild and scenic river is a segment of the Lower American River in Sacramento, California about 90 miles to the northeast of OAK. Due to the substantial distance between the airport and the segment of the American River the proposed BART-OAK connector project would not impact any wild or scenic rivers.

CUMULATIVE IMPACTS

The 2002 FTA FEIS addresses cumulative impacts in Section 3.0. FTA evaluated the cumulative effects of the preferred alternative for the year 2005 and the year 2020. The year 2005 was selected as the year the project was originally anticipated to become operational and the year 2020 was selected as the long range future horizon year that conformed with the regional transportation planning effects by the Alameda County Congestion Management Agency. The proposed AGT would be built in a highly urbanized area with little vacant or undisturbed land.

The 2002 FEIS stated in the summary that proposed projects in the vicinity of the overall project evaluated by FTA included 730 hotel rooms and nearly 2 million square feet of office, research and development, and distribution space. Table 3.0-2 in Section 3.0 of the Final EIS identified eight projects that were expected to be completed by 2005. The closest project to the airport is the proposed Wingate Hotel. Two other near by projects were also hotels. The Wingate hotel was built but is now operated as a Park Plaza Hotel. The Courtyard by Marriott and the Best Western Hotel were built at the locations identified in the 2002 FEIS.

FAA has determined there are no other proposed projects that would be affected by or have impacts in addition to the AGT on airport property. FAA bases this determination on the localized nature of the proposed AGT on airport property along the airport access road leading into the terminal parking lot.

Alternatives Analysis Conclusion

Based on the information disclosed in the 2002 FEIS and the 2006 Addendum, the FAA has determined that the FTA's Preferred Alternative - the AGT Alternative, demonstrated the best ability to meet the purpose and need of the project with minimal adverse environmental impact. The proposed airport connector project with its alignment on OAK airport property would result in no significant adverse impacts. Therefore, the FAA, in the 19 November 2009, Written Re-evaluation and this ROD has determined that the AGT Alternative is the FAA's preferred alternative. This alternative would meet the purpose and need of the Port to accommodate a high quality and more reliable form of transit to service OAK. In arriving at this decision, the FAA considered all pertinent factors including the environmental impacts of various alternatives, as well as the FAA statutory charter in the Federal Aviation Act of 1958, as amended, to assure safe and efficient use of navigable airspace (49 U.S.C. § 40103).

Environmentally Preferred Alternative

The FTA in their 16 July 2002 ROD has determined that in accordance with 49 CFR § 1505.2(b), the AGT Project is the environmentally preferred alternative.

Based on the FAA's Written Re-evaluation, which considered the analysis and the environmental impacts discussed in the FTA Final EIS, the FAA has determined the environmentally preferred alternative is the AGT Alternative.

VI. INTER-AGENCY COORDINATION

In accordance with the Airport and Airway Improvement Act of 1982, as amended, FAA determined that no further coordination with the U.S. Department of Interior or the U.S. Environmental Protection Agency under 49 U.S.C. 47101(h) was required because the proposed project does not involve runway construction.

VII. AGENCY FINDINGS

In accordance with the guidelines described in FAA Order 5050.4B, the FAA has made the following findings and determinations, as necessary, for the proposed project based upon appropriate evidence set forth in the administrative record required by the Airport and Airway Improvement Act of 1982, as amended.

1. The project is reasonably consistent with existing plans of public agencies for development of the area [49 U.S.C. 49 U.S.C. 47106(a)]. The proposed project is consistent with the plans, goals and policies for the area, including the City of Oakland's General Plan. The proposed project is also consistent with the applicable regulations and policies of Federal, State and local agencies.

2. Fair consideration has been given to the interests of communities in or near the project location [49 U.S.C. 47106(b)(2)]. Throughout the EIS preparation process, government officials, agencies, organizations and residents of nearby communities have been consulted, or have participated in activities that have contributed to the preparation of the FTA EIS. Chapter 8 of the 2002 Final EIS identifies the agencies, organizations and individuals who received copies of the Draft EIS.

The Draft EIS was made available to public agencies and the public on 3 August 2001. The public comment period on the Draft EIS ended on 17 September 2001. All the DEIS comments received and responses provided are included in Volume II of the FEIS. The FAA's adoption of the FTA FEIS was published by the EPA in a Federal Register notice on 27 November 2009. The FAA also published a notice on 27 November 2009, in the Oakland Tribune, notifying the public of the FAA's adoption of the FTA FEIS. The FAA made copies of the FEIS available on compact disc in local libraries in the project area.

3. Any actions that encroach on a floodplain. The proposed project is not located in the 100-year floodplain based on updated flood hazard information compiled from the Federal Emergency Management Agency. Proper storm water design and management will reduce the possibility of flooding occurring as a result of the increase in impervious surface area from the proposed project.

4. The FAA has given this proposal the independent and objective evaluation required by the Council on Environmental Quality [40 CFR 1506.5]. As described in the 2002 Final EIS and the 2006 Addendum, the proposed project and the No Action Alternatives were studied extensively to determine the potential assessed impacts and appropriate mitigation measures. The FAA was consulted with and provided input, advice and expertise during the planning and technical analysis of the FTA EIS. The FAA also evaluated the project in a Written Re-evaluation and determined that the information remains current and valid. While not a Cooperating Agency, the FAA has adopted the FTA FEIS for purposes of FAA actions on OAK airport property.

5. The air emissions resulting from the Proposed Project have been determined by the FAA to conform with the State Implementation Plan for air quality pursuant to the Federal Clean Air Act as amended. The proposed project is included in MTC's 2009 RTP that was adopted by MTC on 22 April 2009. The BART- OAK Connector project is specifically identified in the 2009 plan. Since the proposed BART-OAK connector project is included in the current RTP, the project complies with Clean Air Act conformity requirements for transportation projects.

VIII. DECISION AND ORDERS

The FAA has identified the AGT Alternative as the FAA's Preferred Alternative. The FAA must now select one of the following choices.

- Approve agency actions necessary to implement the proposed project, or
- Disapprove agency actions to implement the proposed project.

Approval would signify that applicable federal requirements relating to airport development and planning have been met. Approval would also permit the Port to implement the proposed eligible development using federal funds. Not approving these agency actions would prevent the Port from proceeding with implementation of the proposed project in a timely manner.

I have carefully considered the FAA's goals and objectives in relation to the various aeronautical aspects of the proposed airport connector project at Oakland International Airport as discussed in the 2002 Final EIS and FAA's November 2009 Written Re-evaluation. The review included the purpose and need to be served by this proposed project, alternative means of achieving the purpose and need, the environmental impacts of these alternatives, and the mitigation necessary to preserve and enhance the human environment.

Under the authority delegated to me by the Administrator of the Federal Aviation Administration, I find that the project is reasonably supported. I, therefore, direct that action be taken to carry out the following agency actions discussed more fully in Section III of this ROD including:

1. Unconditional approval of the portion of the ALP that depicts the proposed AGT airport connector project by the Port of Oakland for Oakland International Airport pursuant to 49 U.S.C. 40103(b), 44718 and 47107(a)(16) and 14 CFR 77. The approval of the ALP is based on a determination through the aeronautical study process regarding obstructions to navigable airspace, and that the airport development proposal is acceptable from an airspace perspective.
2. Determination under 49 U.S.C. 44502(b), that the airport development is reasonably necessary for use in air commerce or in the interests of national defense.
3. Continued close coordination with the Port and appropriate FAA program offices, as required, for safety during construction.
4. Approval to proceed with further processing of an application for federal assistance for those eligible airport development projects described as the proposed project within the 2002 FEIS and the Written Re-Evaluation and ROD, under 49 USC §§ 47106 and 47107 for the AIP, and under 49 U.S.C. § 40117, as implemented by 14 CFR §158.25, to impose and use passenger facility charges (PFC's) collected at Oakland International Airport to assist with construction and operation of the potentially eligible development items.
5. Approval of an amendment to the airport certification manual pursuant to 14 CFR Part 139, to maintain aviation and airfield safety during construction, and, as required, to the airport security plan pursuant to 14 CFR Part 107 (49 U.S.C. § 44706).
6. Approval of an airport sponsor's request under 49 U.S.C. Sections 47107(b), 47113 or 47107(a)(13), to grant a right-of-way on OAK to carry out an action under 49 USC Chapter 471, Subchapter I, at a public-use airport or to support the airport's operations.

After careful and thorough consideration of the facts contained herein, the undersigned finds that the proposed Federal action is consistent with existing national environmental policies and objectives as set forth in Section 101(a) of the National Environmental Policy Act of 1969 (NEPA) and that it will not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to Section 102(2)(C) of NEPA.



Mark A. McClardy
Manager, Airports Division
Western-Pacific Region

12/29/09

Date

Right of Appeal

This decision, including any subsequent actions approving a grant of Federal funds or approval of an application to impose and use Passenger Facility Charges to Oakland International Airport, by the Port of Oakland, California, are taken pursuant to 49 USC § 40101 et seq. and 49 USC § 47101 et seq., and constitute orders of the Administrator which are subject to review by the Courts of Appeals of the United States in accordance with the provisions of Section 1006 of the Federal Aviation Act of 1958, as amended, 49 USC § 46110.

Appendix A

Responses to Comments on the FAA's Adoption of the FTA's 2002 Final Environmental Impact Statement

The 2002 Final Environmental Impact Statement (EIS) for the Proposed Bay Area Rapid Transit (BART) connector to Oakland International Airport (OAK) was prepared by the Federal Transit Administration (FTA), pursuant to the National Environmental Policy Act (NEPA), and in accordance with the Council on Environmental Quality (CEQ) implementing regulations (40 CFR Part 1500-1508). The Federal Aviation Administration (FAA) has adopted the Final EIS.

The proposed BART-OAK connector project is subject to environmental review requirements under both federal requirements for preparation of an Environmental Impact Statement (EIS) under NEPA and state requirements for preparation of an Environmental Impact Report (EIR) under the California Environmental Quality Act (CEQA). A joint EIS and EIR for the connector project was previously prepared by the FTA as the lead federal agency and by BART as the lead state agency, to comply with their respective NEPA and CEQA requirements. BART and FTA published a Final EIR / Final EIS in March 2002, which selected an Automated Guideway Transit (AGT) alternative as the preferred alternative. The document is identified as a joint FEIR/FEIS, however, the FAA is utilizing the analysis and information applicable for the EIS, and the document will be referred to as the FEIS in this ROD. While FAA is listed as one of the agencies that FTA completed coordination during preparation of the EIS, FAA was not a designated Cooperating Agency pursuant to Title 40, Code of Federal Regulations (CFR) Part 1501.6.

In adopting the 2002 Final EIS, the FAA determined the document met the requirements of FAA Order 5050.4B, *National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions*. Pursuant to FAA Order 5050.4B, FAA adopted the Final EIS. FAA circulated the 2002 FEIS as a Final EIS prior to FAA actions for approval related to the on-airport project development. The U.S. EPA published the Notice of Adoption and availability of the Re-circulated Final EIS in the Federal Register on November 27, 2009. FAA also published a notice in the local newspaper. The end of the 30-day waiting period following the Notice of availability of the Final EIS ended on December 28, 2009. FAA received comments on the Final EIS from the U.S. EPA, Region IX.

The format for the responses to comments presents, on a letter-by-letter basis, each comment, followed immediately by a response. An alphanumeric index system is used to identify each comment and response, and is keyed to each letter commenter and the individual comments therein. For example, the first letter within the comments on the Adopted Final EIS is from the U.S. Environmental Protection Agency. The text of the letter is considered to have five individual comments, in addition to comments submitted to the FTA on the Draft EIS and again on the Final EIS in 2002. The subject letter was assigned the alphanumeric label "FEIS001," representing "Comments on the Adopted Final EIS-Letter No. 1." The individual comments within the letter are labeled as FEIS001-1 through FEIS002-17. FAA has included a copy of the comment letters into this appendix.

I believe that these materials were already sent to you either by email or fax. Personally, I sent out the hard copies to you earlier today. But given the nature of the holiday season I consider it wise to follow the instructions below. Thank you.

----- Forwarded by David Gassman/R9/USEPA/US on 12/21/2009 02:55 PM -----

From: Connell Dunning/R9/USEPA/US
To: David Gassman/R9/USEPA/US@EPA
Date: 12/18/2009 01:37 PM
Subject: EPA comments on the FAA adoption of the FTA BART Airport Connector project FEIS

David -
Please email this to Pete Ciesla and ray Sukys on Monday.

Pete.Ciesla@faa.gov,, Raymond.Sukys@dot.gov,
Pete and Ray -
EPA's comments on the BART to Oakland Airport Connector -
Note that one attachment has the date of May 2001....This was misdated and the letter was actually written May 2002....
This will make sense once you read the letter.
A hard copy will be mailed to you today.
Thanks,
Connell

Connell Dunning, U.S. EPA
Environmental Review Office - Transportation Lead
75 Hawthorne Street, CED-2
San Francisco, CA 94105
phone: 415-947-4161, fax: 415-947-8026
dunning.connell@epa.gov

Please consider the environment before printing this e-mail

----- Forwarded by Connell Dunning/R9/USEPA/US on 12/18/2009 01:32 PM -----

From: Carol Sachs/R9/USEPA/US
To: Connell Dunning/R9/USEPA/US@EPA
Date: 12/18/2009 01:25 PM



BART to Oakland Airport DEIS.pdf BART to Oakland Airport FEIS.pdf 20090404.pdf



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

DEC 21 2009

Mr. Peter Ciesla
Federal Aviation Administration, Western Pacific Region, Airports Division
PO Box 92007
Los Angeles, CA 90009-2007

Subject: EPA Comments on the Adoption of the Final Environmental Impact Statement for the
Oakland International Airport Connector (CEQ #20090404)

Dear Mr. Ciesla:

The U.S. Environmental Protection Agency (EPA) has reviewed the Federal Register Notice published on November 27, 2009, describing Federal Aviation Administration's (FAA) intent to adopt the Federal Transit Administration's (FTA) Final Environmental Impact Statement (Final EIS) for the Oakland International Airport Connector. The Final EIS prepared by FTA for this project was completed in 2002. Our comments are provided pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

Because your agency is adopting the Final EIS that EPA previously reviewed and commented on, we are attaching the previous Draft EIS and Final EIS comment letters prepared for the project. At the time of our agencies review of the Final EIS, in 2002, our agency had no remaining concerns with the project. However, we note that seven years have passed since the completion, and review, of that document. In the Record of Decision, we urge FAA to confirm that data and analysis (including modeling and assumptions used), as well as additional information used to support decisions, are still timely, appropriate, and supported. Where new information (available in the last seven years) leads FAA to additional analysis and/or measures to further reduce environmental impacts, additional commitments to reduce impacts should be presented in the Record of Decision.

EPA appreciates the opportunity to comment on the adoption of the Final EIS. Once the Record of Decision is signed, please send a copy to the address above (mail code: CED-2). If you have any questions, please contact me, at 415-947-4161, or dunning.connell@epa.gov.

Sincerely,

Connell Dunning, Transportation Team Supervisor
Environmental Review Office (CED-2)

Enclosure: EPA's September 17, 2001 comment letter on the Draft Environmental Impact Statement for the Oakland International Airport Connector
EPA's May 10, 2002 comment letter on the Final Environmental Impact Statement for the Oakland International Airport Connector

CC: Ray Sukys, Federal Transit Administration



Reviewing file

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

September 17, 2001

Donna Turchie
Federal Transit Administration, Region IX
201 Mission Street, Room 2210
San Francisco, CA 94105

Dear Ms. Turchie:

The Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for the **BART-Oakland International Airport Connector**, Alameda County, California (CEQ Number: 010281, ERP Number: FTA-K51041-CA). Our review is pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508) and Section 309 of the Clean Air Act.

The San Francisco Bay Area Rapid Transit District (BART) is proposing a BART-Oakland International Airport Connector (Connector) project to improve access to the airport using direct connections to the existing regional BART rail transit system. The Connector would link the Oakland International Airport and the Coliseum BART Station, a distance of approximately 3.2 miles. Three project alternatives are analyzed in the DEIS: 1) No Action Alternative, 2) Quality Bus, and 3) Automated Guideway Transit (AGT).

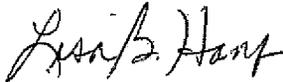
The Quality Bus alternative consists of a fleet of nine new 60-foot, articulated buses that would utilize existing roads along with other traffic, but would enjoy traffic signal pre-emption along Hegenberger Road. An exclusive lane for the Quality Bus would be provided at Oakland International Airport, as well as two new stations, one at the BART station and the other at the airport. The AGT Alternative consists of an exclusive aerial guideway for transit vehicles. The guideway would be elevated for its entire length, except in the vicinity of the North Field runways and a short tunnel passing beneath the Airport Drive/Doolittle Drive Interchange. Although various technology options are discussed, a specific AGT technology has not been selected for this project. Depending on the AGT technology selected, three or four power substations would be required. Both the Quality Bus and the AGT alternatives include maintenance facilities. A Preferred Alternative is not identified in the DEIS.

EPA is highly supportive of the BART-Oakland International Airport Connector concept. EPA encourages projects that reduce vehicle miles traveled by providing communities with viable options to driving. EPA applauds the project goals to increase transit ridership, reduce air emissions, reduce overall energy consumption, and to serve as a catalyst for public and private ventures to economically revitalize the study area. We look forward to the successful implementation of this project.

There are several meritorious elements of this project, including the development and implementation of a Construction Energy Conservation Plan and the replacement of impacted trees with native tree species. In addition, the document is very well prepared. The format is clear and easy to follow, and mitigation measures are clearly laid out both in the Summary Impacts Table and in the text of the DEIS. We are, however, concerned with the absence of pertinent project information. Specifically, the DEIS does not include information about the candidate maintenance/storage facility sites under consideration for the Quality Bus Alternative, nor has a formal jurisdictional wetland delineation been performed. Based on these concerns, we have rated the document *EC-2, Environmental Concerns-Insufficient Information*. Please see the attached *Rating Factors* for a description of our rating system. As a Preferred Alternative has not been identified, this rating applies to each of the alternatives presented in the document.

Attached is a detailed set of EPA's recommendations for the Final EIS (FEIS). If you have any questions, please feel free to contact me or Nova Blazej, the primary person working on this project. Nova Blazej can be reached at 415-744-2089 or blazej.nova@epa.gov.

Sincerely,



Lisa B. Hanf, Manager
Federal Activities Office

Attachments: Summary of EPA Rating Definitions
Detailed Comments

cc: Marianne Payne, BART

SUMMARY OF EPA RATING DEFINITIONS

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

ADEQUACY OF THE IMPACT STATEMENT

Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment"

U.S. EPA DETAILED COMMENTS
BART-OAKLAND INTERNATIONAL AIRPORT CONNECTOR DEIS

Maintenance/Storage Facility

The DEIS does not identify the candidate maintenance/storage facility sites under consideration for the Quality Bus Alternative, nor is an environmental review performed for these sites. The DEIS states that if the Quality Bus Alternative is selected, the maintenance/storage facility sites would undergo environmental review (p. 2.3-17). The construction of the Quality Bus maintenance/storage facility sites is a connected action, i.e. construction of this facility would only occur with the implementation of the Quality Bus Alternative. Thus, an environmental review is required for these sites and should be included in this EIS (CEQ regulations 40 CFR Part 1508.25(a)(1)). Potential areas of concern include Environmental Justice, impacts to water resources, and the presence of hazardous materials.

Recommendation:

- In the FEIS, specifically identify the sites under consideration for the Quality Bus maintenance/storage facility and include an environmental review of those sites.

Wetlands Impacts

A formal delineation of jurisdictional wetlands should have been performed for the DEIS. The inclusion of this information would have 1) clarified agency roles and responsibilities and 2) provided a basis for more detailed mitigation measures. It appears that a nationwide permit may be applicable to this project (p. 3.10-10). However, if the Army Corps of Engineers (ACOE) determines that an individual permit is required, EPA has the authority to play a very active role in the project development as outlined in the NEPA/Clean Water Act Section 404 Integrated Process Memorandum of Understanding (MOU).

Recommendations:

- Perform a formal jurisdictional wetland delineation. Determine the need for a nationwide or individual permit and contact EPA if an individual permit is required.
- Describe detailed mitigation measures approved by ACOE.
- Include this information, and supporting written correspondence from ACOE, in the FEIS.

Cumulative Impacts to Wetlands

The DEIS notes that cumulatively, wetlands in the project area will be significantly impacted and states, "mitigation for significant biological impacts would occur through the Corps' 404 permit process and the U.S. Fish and Wildlife Services' Section 7 consultations ..." (p. 3.10-21).

According to CEQ's *40 Most Frequently Asked Questions* number 19(b), the DEIS should

provide more detailed direction for mitigating these significant impacts. The DEIS should include all relevant, reasonable mitigation measures, even if they are outside the jurisdiction of the lead agency or cooperating agencies. The intent of this provision is to alert agencies or officials who can implement these mitigation measures.

Recommendation:

- Where appropriate, identify mitigation measures for the significant cumulative impacts to wetlands and identify those parties with implementation authority and/or responsibility.

Air

The section on Air Quality should include a discussion of the new standards adopted by EPA in 1997 for ozone and particulate matter. Although EPA has not yet designated any areas of the country as nonattainment for the new standards, the Air Quality section of the DEIS warrants a discussion of these new standards. In addition, please be aware that new guidance has just been issued by the Federal Highway Administration for qualitative project level "hot spot" analysis in particulate matter less than ten microns (PM10) maintenance and nonattainment areas and may be applicable to the FEIS. A copy of this guidance is available from our office.

Pollution Prevention

The Resource Conservation & Recovery Act (RCRA) Section 6002 requires federal, state, local agencies, and their contractors, that use appropriated federal funds to purchase EPA-designated recycled materials, including EPA-designated transportation, construction, and landscaping products. In addition, EPA supports deconstruction and materials reuse in projects where existing structures are removed.

Recommendation:

- Commit to materials reuse, where appropriate and feasible, and include a commitment to the Buy-Recycled requirements. For further details, please see EPA's web site at <http://www.epa.gov/cpg>.

EPA recognizes that BART has not yet selected an AGT technology. EPA strongly encourages BART to commit to using low-emission, environmentally friendly technology for any alternative selected.

FEIS001. Dunning, Connell, Transportation Team Supervisor, Environmental Review Office, U.S. Environmental Protection Agency (EPA). Letter and e-mail dated 12/21/2009.

FEIS001-1. Comment in 12/21/2009 email forwarded by David Gassman – EPA. The email had three documents attached, the 12/21/2009 EPA letter responding to the notice that FAA adopted the FTA 2002 FEIS and two letters previously submitted by EPA to FTA - one with comments on the DEIS and one with comments on the FEIS.

Comment: EPA's comments on the BART to Oakland Airport Connector - Note that one attachment has the date of May 2001. This was misdated and the letter was actually written May 2002. This will make sense once you read the letter. A hard copy will be mailed to you today.

Response: Comment noted. FAA has included those comments that were in the letters enclosed with the December 21, 2009 letter below, beginning with Comment FEIS001-7.

FEIS001-2. Comments in Connell Dunning 12/21/2009 letter

Comment: The U.S Environmental Protection Agency (EPA) has reviewed the Federal Register Notice published on November 27, 2009, describing Federal Aviation Administration's (FAA) intent to adopt the Federal Transit Administration's (FTA) Final Environmental Impact Statement (Final EIS) for the Oakland International Airport Connector. The Final EIS prepared by FTA for this project was completed in 2002. Our comments are provided pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

Response: Comment noted.

FEIS001-3.

Comment: Because your agency is adopting the Final EIS that EPA previously reviewed and commented on, we are attaching the previous Draft EIS and Final EIS comment letters prepared for the project.

Response: FAA has reviewed each of the comments provided in the two letters included with the December 21, 2009 letter from EPA. FAA is including those comments below and referencing the FTA's response and FAA's concurrence with that response as the adopting agency. These responses to comments follow those from EPA's December 21, 2009 letter below.

FEIS001-4.

Comment: At the time of our agencies [sic] review of the Final EIS, in 2002, our agency had no remaining concerns with the project. However, we note that seven years have passed since the completion, and review of that document. In the Record of Decision, we urge FAA to confirm that data and analysis (including modeling and assumptions used), as well as additional information used to support decisions, are still timely, appropriate, and supported.

Response: The FAA has carefully evaluated the 2002 Final EIS for the proposed BART-OAK connector project. FAA prepared a written re-evaluation of the 2002 Final EIS to determine if any additional information and analysis was necessary in order to supplement the information in the Final EIS before being able to make a decision. FAA concluded that additional analysis of impacts and the assumptions used are still timely, appropriate and supportable by the FAA. Consequently, FAA decided to adopt the 2002 Final EIS prepared by FTA as a Final EIS for the FAA.

FEIS001-5.

Comment: Where new information (available in the last seven years) leads FAA to additional analysis and/or measures to further reduce environmental impacts, additional commitments to reduce impacts should be presented in the Record of Decision.

Response: The FAA determined that the data and analysis contained in the 2002 FEIS, prepared by the FTA, adequately and accurately analyzed the potential project impacts, and the information remains current and valid. Further, there are no significant new circumstances or information relevant to environmental impacts resulting from the proposed action. The project remains essentially similar to that proposed and analyzed in the FTA EIS. The FAA has determined there are no substantial changes that have occurred. Therefore, the 2002 BART-OAK FEIS is still timely, appropriate, and supported.

FEIS001-6

Comment: EPA appreciates the opportunity to comment on the adoption of the Final EIS. Once the Record of Decision is signed, please send a copy to the address above (mail code: CED-2).

Response: Comment noted. A copy of the ROD will be sent to U.S. EPA as requested.

FEIS001-7. The following comments are from the U.S. EPA's September 17, 2001 letter to the FTA on the Draft EIS. Since the EPA submitted this letter with comments in their December 21, 2009 letter, responding to FAA's adoption of FTA's 2002 FEIS, the FAA is providing the following responses. FTA had included this letter in Volume 2 of the 2002 FEIS and it is identified as "Letter 3," beginning on page 2-15 of the FEIS.

Comment:

[FTA FEIS Comment identifier 3-1]. EPA is highly supportive of the BART-Oakland International Airport Connector concept. EPA encourages projects that reduce vehicle miles traveled by providing communities with viable options to driving. EPA applauds the project goals to: increase transit ridership, reduce air emissions, reduce overall energy consumption, and to serve as a catalyst for public and private ventures to economically revitalize the study area. We look forward to the successful implementation of this project.

Response: Comment noted. FAA concurs with FTA's response and also supports the proposed BART-OAK connector as a multi-modal transportation project that will enhance both the airport environs and the surrounding community.

FEIS001-8

Comment:

[FTA FEIS Comment identifier 3-2]. We are, however, concerned with the absence of pertinent project information. Specifically, the DEIS does not include information about the candidate maintenance/storage facility sites under consideration for the Quality Bus Alternative

Response: FTA Response: See response to comment 3-4. FAA concurs with this response.

FEIS001-9

Comment:

[FTA FEIS Comment identifier 3-3] ...nor has a formal jurisdictional wetland delineation been performed.

Response FTA Response: See response to comment 3-5. FAA concurs with this response. FTA's response noted that a wetlands delineation was verified by the U.S. Army Corps of Engineers as part of the Port of Oakland's Airport Development Program and Permit Number 21590S was issued for fill of wetlands and other waters of the United States. In accordance with Section 404 requirements, the Corps issued a public notice of the permit on December 11, 1998. The revised alignment of the BART-OAK Connector in the airport terminal parking lot will not affect any wetlands or waters of the U.S., as the parking lot is currently paved.

FEIS001-10

Comment:

[FTA FEIS Comment identifier 3-4] Maintenance/Storage Facility. The DEIS does not identify the candidate maintenance/storage facility sites under consideration for the Quality Bus Alternative, nor is an environmental review performed for these sites. The DEIS states that if the Quality Bus Alternative is selected, the maintenance/storage facility sites would undergo environmental review

(p. 2.3-17). The construction of the Quality Bus maintenance/storage facility sites is a connected action, i.e. construction of this facility would only occur with the implementation of the Quality Bus Alternative. Thus, an environmental review is required for these sites and should be included in this EIS (CEQ regulations 40 CFR Part 1508.25(a)(1)). Potential areas of concern include Environmental Justice, impacts to water resources, and the presence of hazardous materials.

Recommendation: In the FEIS, specifically identify the sites under consideration for the Quality Bus maintenance/storage facility and include an environmental review of those sites.

Response: FTA response 3-4 addressed the issue of the potential bus storage facility in the event a bus alternative was selected. FTA revised the text of the Final EIS stating in part "At this time, there does not appear to be enough increased demand for dedicated bus maintenance to warrant siting, construction and operation of a new facility for the QB. Currently, BART contracts for storage and maintenance of the AirBART Shuttles. AirBART storage occurs on Port of Oakland property at Oakland International Airport, and an independent vendor handles maintenance and operation...." The FAA concurs with FTA's response to the comment.

FEIS001-11

Comment:

[FTA FEIS Comment identifier 3-5] Wetlands Impacts. A formal delineation of jurisdictional wetlands should have been performed for the DEIS. The inclusion of this information would have 1) clarified agency roles and responsibilities and 2) provided a basis for more detailed mitigation measures. It appears that a nationwide permit may be applicable to this project (p. 3.10-10). However, if the Army Corps of Engineers (ACOE) determines that an individual permit is required, EPA has the authority to play a very active role in the project development as outlined in the NEPA/Clean Water Act Section 404 Integrated Process Memorandum of Understanding (MOU).

Recommendations:

- Perform a formal jurisdictional wetland delineation. Determine the need for a nationwide or individual permit and contact EPA if an individual permit is required.

- Describe detailed mitigation measures approved by ACOE.

- Include this information, and supporting written correspondence from ACOE, in the FEIS.

Response: FTA response 3-5 indicates all wetlands potentially within the Connector project corridor are either already delineated by the Port of Oakland or are in areas where impacts are not expected because the AGT structure traverses them aerially. FTA's response also noted that a wetlands delineation was verified by the U.S. Army Corps of Engineers as part of the Port of Oakland's Airport Development Program and Permit Number 21590S was issued for fill of wetlands and other waters of the United States. In accordance with Section 404 requirements, the Corps issued a public notice of the permit on December 11, 1998. The revised alignment of the BART-OAK Connector in the airport terminal parking lot will not affect any wetlands or waters of the U.S., as the parking lot is currently paved. FAA concurs with FTA's response to comment.

FEIS001-12

Comment:

[FTA FEIS Comment identifier 3-6] Cumulative Impacts to Wetlands. The DEIS notes that cumulatively, wetlands in the project area will be significantly impacted and states, "mitigation for significant biological impacts would occur through the Corps' 404 permit process and the U.S. Fish and Wildlife Services' Section 7 consultations ..." (p. 3.10-21). According to CEQ's 40 *Most Frequently Asked Questions* number 19(b), the DEIS should provide more detailed direction for mitigating these significant impacts. The DEIS should include all relevant, reasonable mitigation measures, even if they are outside the jurisdiction of the lead agency or cooperating agencies. The intent of this provision is to alert agencies or officials who can implement these mitigation measures.

Recommendation: Where appropriate, identify mitigation measures for the significant cumulative impacts to wetlands and identify those parties with implementation authority and/or responsibility.

Response: FTA's response 3-6 indicates the majority of the cumulative impacts to wetlands are as a result of the Port of Oakland's Airport Development Program. The response indicates the mitigation measures by the Port were described in the public notice issued by the Port on December 11, 1998 and summarized in FTA's response to comment 3-5 on pages 2-22 through 2-29 of Volume 2 of the 2002 Final EIS. FAA concurs with the response.

FEIS001-13

Comment:

[FTA FEIS Comment identifier 3-7] Air. The section on Air Quality should include a discussion of the new standards adopted by EPA in 1997 for ozone and particulate matter. Although EPA has not yet designated any areas of the country as nonattainment for the new standards, the Air Quality section of the DEIS warrants a discussion of these new standards. In addition, please be aware that new guidance has just been issued by the Federal Highway Administration for qualitative project level "hot spot" analysis in particulate matter less than ten microns (PM₁₀) maintenance and nonattainment areas and may be applicable to the FEIS. A copy of this guidance is available from our office. FAA concurs with the response.

Response: FTA's Response 3-7 states that new text was added to the FEIS indicating the status of PM₁₀ and PM_{2.5} standards for the National Ambient Air Quality Standards. Subsequent litigation held the NAAQS as unenforceable and/or not being implemented and that is why the Final EIS did not address these standards. FAA concurs with FTA's response and adds the following information:

The U.S. EPA issued attainment status designation for the new 35 micrograms/m³ PM_{2.5} standard on 25 December 2008. Alameda County was designated as nonattainment, and the designation would normally be effective 90 days after publication of the regulation in the *Federal Register*. However, on 20 January, 2009, President Obama, through his Chief of Staff, issued a memorandum to all Federal Government Department heads ordering a freeze on all pending federal rules, which has delayed the exact date of the designation. Subsequently, on 13 November 2009, U.S. EPA published a Federal Register notice (70 FR 58688) establishing the PM_{2.5} air quality designations for most areas of the United States, and Alameda County is identified as an area in nonattainment. These designations become effective 30-days after the publication of this notice.

FEIS001-14

Comment:

[FTA FEIS Comment identifier 3-8] Pollution Prevention. The Resource Conservation & Recovery Act (RCRA) Section 6002 requires federal, state, local agencies, and their contractors, that use appropriated federal funds to purchase EPA-designated recycled materials, including EPA-designated transportation, construction, and landscaping products. In addition, EPA supports deconstruction and materials reuse in projects where existing structures are removed.

Recommendation: Commit to materials reuse, where appropriate and feasible, and include a commitment to the Buy-Recycled requirements. For further details, please see EPA's web site at <http://www.epa.gov/cpg>.

Response: FTA's Response 3-8 indicates the two alternatives – the Quality Bus and the AGT require concrete structures that do not lend themselves to recycled materials. The Response also notes that BART participates in a number of recycle programs and will continue to do so where feasible. FAA concurs with FTA's response.

FEIS001-15

Comment:

[FTA FEIS Comment identifier 3-9] EPA recognizes that BART has not yet selected an AGT technology. EPA strongly encourages BART to commit to using low-emission, environmentally friendly technology for any alternative selected.

Response: FTA Response 3-9 - Comment noted. FAA concurs with the response.

FEIS001-16. The following comments are from the U.S. EPA's May 10, 2001, letter that is actually dated May 10, 2002 to the FTA on the Final EIS. See Comment FEIS001-1. Since the EPA's comments indicated they were satisfied their comments on the draft were adequately responded to, no detailed responses from FTA were prepared. FTA's July 16, 2002 Record of Decision did not include any responses to comments on the Final EIS, as is FAA's practice. Consequently, since the EPA submitted these comments in their December 21, 2009 letter, responding to FAA's adoption of FTA's 2002 FEIS, the FAA is providing the following responses.

Comment: The Environmental Protection Agency (EPA) has reviewed the Final Environmental Impact Statement (FEIS) for the BART-Oakland International Airport Connector, Alameda County, California (CEQ Number: 020140, ERP Number: FfA-K51041-CA). Our review is pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

Response: Comment noted.

FEIS001-17

Comment: The Federal Transit Administration (FTA) and the Bay Area Rapid Transit District (BART) propose the construction of a BART-Oakland International Airport Connector project, which will improve access to the airport using direct connections to the existing regional BART rail transit system. Three alternatives were studied in detail in the Draft Environmental Impact Statement: (1) a No Action Alternative, (2) a Quality Bus Alternative, and (3) an Automated Guideway Transit (AGT) Alternative providing an exclusive aerial guideway for transit vehicles. The FEIS identifies the AGT Alternative as the Preferred Alternative.

Response: Comment noted.

FEIS001-18

Comment: EPA reviewed the Draft Environmental Impact Statement in September, 2001 and rated the document *EC-2, Environmental Concerns-Insufficient Information*. We requested additional information on the Quality Bus maintenance/storage facility and impacts to wetlands. In our review of the FEIS, we found that FTA and BART did an excellent job responding to our concerns and made appropriate changes in the PEIS. All of EPA's concerns are adequately addressed in the FEIS.

Response: Comment noted.

FEIS001-19

Comment: We appreciate this opportunity to review the FEIS and look forward to the successful completion of this project. If you have further questions, please feel free to contact me or Nova Blazej, the primary contact for this project. Nova Blazej can be reached at 415-972-3846 or blazej.nova@epa.gov.

Response: Comment noted.

END OF RESPONSES TO COMMENTS