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April 8, 2014



Cynthia T. Brown, Chief
Section of Administration
Surface Transportation Board
395 E. Street, S.W., Room 100
Washington, D.C. 20423-0001

U.S. Environmental Protection Agency
Mail Code: 2201A
1200 Pennsylvania Ave., NW
Washington, D.C. 20460-0001

National Park Service
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

U.S. Environmental Protection Agency
National Environmental Justice Advisory Committee
Attention: Victoria J. Robinson, Designated Federal Officer
Mail Code: 2201A
1200 Pennsylvania Ave., NW
Washington, D.C. 20460-0001

Re: California High-Speed Rail Section 6(f) and 4(f) Impacts
Fresno-to-Bakersfield Section

Ladies and Gentlemen:

Please find attached a letter written by Alan Tandy, City Manager of Bakersfield, concerning 6(f) and 4(f) impacts by the proposed high speed rail, just recently brought to light.

We write to all of you because at this point it is unclear who will have decision-making authority over the High Speed Rail project and its various segments. While we believe the High Speed Rail Authority is the Lead Agency for CEQA purposes for the entire High Speed Rail and all its segments, we understand that the Authority has asserted that its environmental review authority is preempted by the assertion by the STB of authority over the High Speed Rail in June 2013 pursuant to the Interstate Commerce Commission Termination Act of 1995 (ICCTA). The Authority, in litigation over the Bay Area to Central Valley segment of the high-speed rail system, asserted this action by STB had the effect of preempting its environmental review authority pursuant to the California Environmental Quality Act. We believe no such preemption has occurred and that while STB may have jurisdiction over the High Speed Rail system, it is not exclusive. In the interest of efficiency, however, we write to each of you that may exercise some authority over the High Speed Rail in the future, or over coordination proceedings related to the High Speed Rail system.

Very truly yours,



VIRGINIA GENNARO
City Attorney

VG:lsc

Attachment

cc (w/o enc.): Alan Tandy, City Manager

Steven Teglia, Assistant to the City Manager
California High-Speed Rail Authority

cc (w/enc.): Douglas P. Carstens, Esq.
Jason W. Holder, Esq.



April 1, 2014

Melissa Elefante DuMond, AICP
Office of Passenger and Freight Programs
US Department of Transportation
Federal Railroad Administration
1200 New Jersey Avenue, SE
West Building-Mail Stop 20
Washington DC 20590

Subject: California High Speed Rail Section 6(f) and Section 4(f) Impacts

Dear Ms. DuMond,

It is our understanding that the California High Speed Rail Project (CHSRP) is proposing an alignment that may significantly impact City of Bakersfield (City) park and recreation facilities. Representatives of CHSRP met with City of Bakersfield staff on March 13, 2014 to discuss impacts to the following city-owned parks and/or recreational facilities: Kern River Parkway, Mill Creek Linear Park, and McMurtrey Aquatic Center. The City of Bakersfield is requesting CHSRP to address potential Section 4(f) and Section 6(f) impacts to City-owned parks and/or recreational facilities.

Section 6(f) Resource: Kern River Parkway

During the meeting, a discussion regarding the Kern River Parkway's receipt of Land and Water Conservation Funds (LWCF) was mentioned. Under Section 6(f)(3) of the LWCF Act, no property acquired or developed with assistance under this section shall, without the approval of the Department of Interior's National Park Service (NPS), be converted to other than public outdoor recreational uses. The Kern River Parkway is a property that has received LWCF assistance and is covered under Section 6(f). Based on our review of the *California High Speed Train Draft EIR/Supplemental Draft EIS* (July 2012), the Kern River Parkway is not analyzed and/or mentioned in the CHSRP environmental document under Section 6(f).

In Section 4.10 of the Draft EIR/EIS, the document states that *"Section 6(f) conversion requires additional coordination with the agency of jurisdiction and California State Parks, which oversees the LWCF program for NPS, and the NPS regarding the project effects and conversion area and replacement property."* The City of Bakersfield is the local jurisdictional authority and the California State Department of Parks and Recreation is responsible for the administration of the LWCF for the Kern River Parkway. To our knowledge, neither of these agencies was consulted regarding potential Section 6(f) impacts to the Kern River Parkway.

In accordance with 36 CFR 59.3, environmental evaluation must have been "satisfactorily completed and considered by NPS" and that the proposal for conversion "shall not occur until the NPS Regional office is assured that all environmental review requirements related to that other action have been met." In addition to the absence of NPS review of the proposed conversion related to the Kern River Parkway, State Intergovernmental clearinghouse procedures have not been met with respect to the proposed conversion. As the grantee of LWCF assistance and the local jurisdictional authority of the Kern River Parkway, the City is requesting the CHSRP follow the procedures outlined in 36 CFR 59.1:

- 1) Evaluate all environmental direct and proximity effects to the Section 6(f) resource;
- 2) Circulate the findings of the Section 6(f) analysis via State Clearinghouse; and
- 3) Provide the City of Bakersfield, State Parks and NPS results of the environmental analysis and mitigation measures for review and concurrence.

Only when the above requests are satisfied, may the City consider CHSRP's proposal to convert the proposed area. The City further advises the project sponsor to not finalize the Draft EIR/EIS until the required Section 6(f) consultation has been conducted.

Section 4(f): Kern River Parkway, Mill Creek Linear Park and McMurtrey Aquatic Center

The City of Bakersfield is requesting **specific** mitigation measures to be included in the CHSRP EIR/EIS to avoid adverse impacts to Section 4(f) resources. If mitigation measures are not provided by the project sponsor, the City is requesting CHSRP to continue coordination efforts until mitigation measures are identified that adequately address impacts to the City's Section 4(f) resources.

Kern River Parkway

Potential Section 4(f) impacts to the facility involve several proximity effects due to trains traversing across the Kern River Parkway. Impacts to this park include noise and vibration impacts that would degrade the recreational value of the park. Several picnic areas within the vicinity of the CHSRP would be impacted by the project. Specific mitigation measures for these resources have not been identified in the Draft EIR/EIS. In addition to noise impacts, existing view sheds of the Kern River would be significantly impacted by the proposed bridge structures, which would alter existing scenic vistas along the banks of the Kern River.

Mill Creek Linear Park

Excessive train noise impacts are also anticipated to impact the Mill Creek Linear Park. The proposed CHSRP alignment would be constructed on a structure at this location and train related noise would propagate further and impact a larger area due to the higher elevation. This type of noise impact would degrade the recreational value of the park to such an extent that the park area would be rendered unusable for picnics and social gatherings.

The linear park area, which is impacted by the project, includes a recently constructed affordable housing project. Executive Order 12898 requires that each federal agency shall

avoid "disproportionately high and adverse" effects on minority and low-income populations. The CHSRP alignment would disproportionately affect low-income populations by limiting the availability of affordable housing.

McMurtrey Aquatic Center

The CHSRP alignment is within close proximity of the aquatic center. Outdoor pool areas, daily operation and recreational activities would be severely affected due to the cumulative effect of BNSF and CHSRP train noise. In addition to excessive noise impacts, access to this facility would be severely impacted because of the elimination of parking stalls. Considering that McMurtrey Aquatic Center is a regional recreational facility, the loss of parking stalls would limit accessibility and services for this specific type of recreation to residents. Parking is needed to accommodate existing and the future increase of patrons to the McMurtrey Aquatic Center. The facility serves and provides aquatic programs to community members who do not have access to aquatic facilities; the geographic location of this aquatic center also provides recreational services for low-income families. In addition to providing aquatic recreation, the McMurtrey Aquatic Center is also utilized for employment training for the community, which includes low income residents.

In closing, we have reached a pivotal point in the progression of the environmental approval process and urge the CHSRP to revisit the points raised in the above-referenced analysis for the impacted city-owned parks and/or recreational facilities. Any delays in addressing the subject resources would have additional consequential impacts that damage the operation and well being of the City of Bakersfield community as a whole.

City staff has taken the liberty to include with this letter, several maps which better reflect the current facilities/amenities that will be impacted. This was necessary due to the fact that the CHSRP maps that were provided were outdated and did not provide a true representation of the impacted areas that have been previously discussed.

If you have any questions or request further discussion about any of the issues raised in this letter, please feel free to contact me.

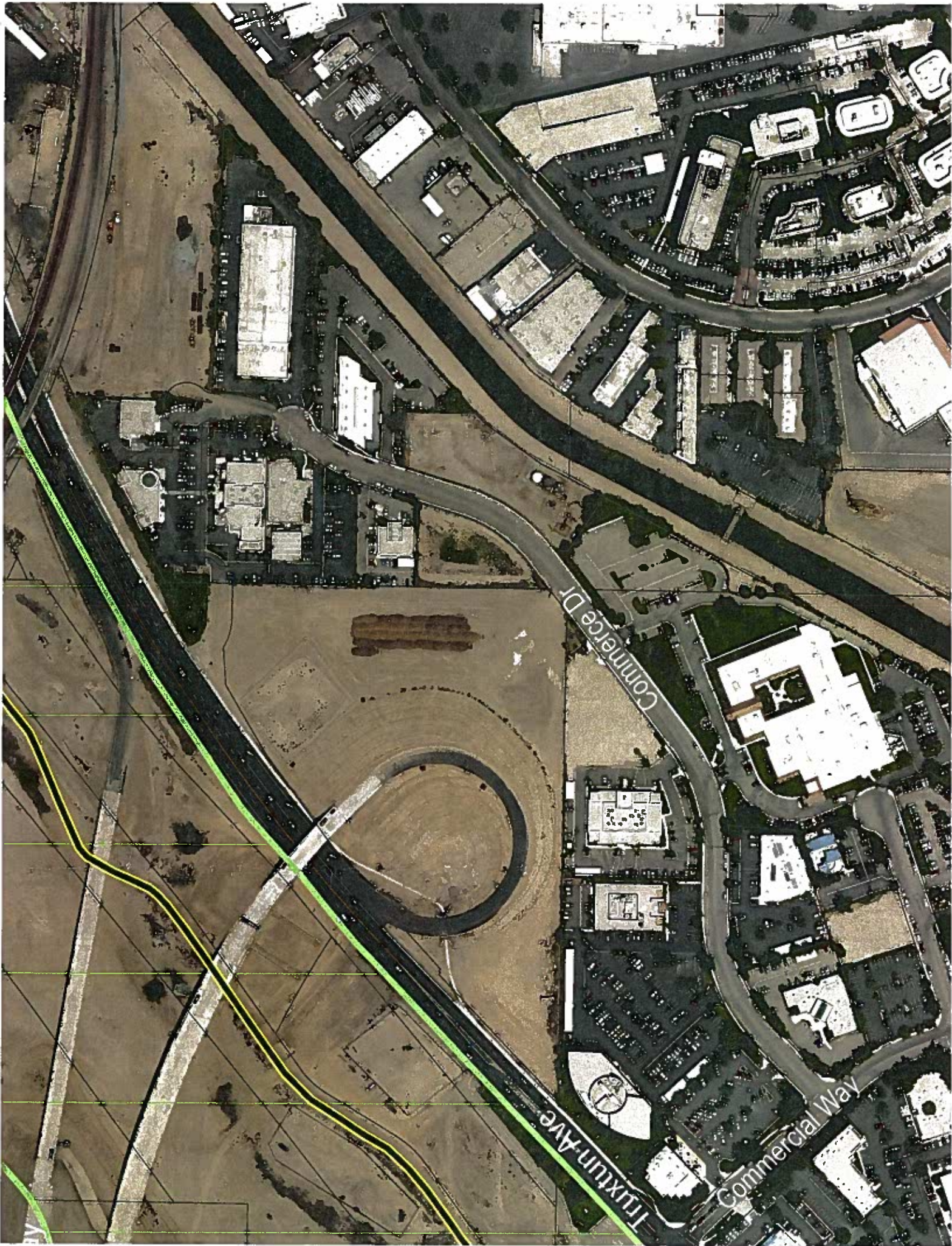
Sincerely,

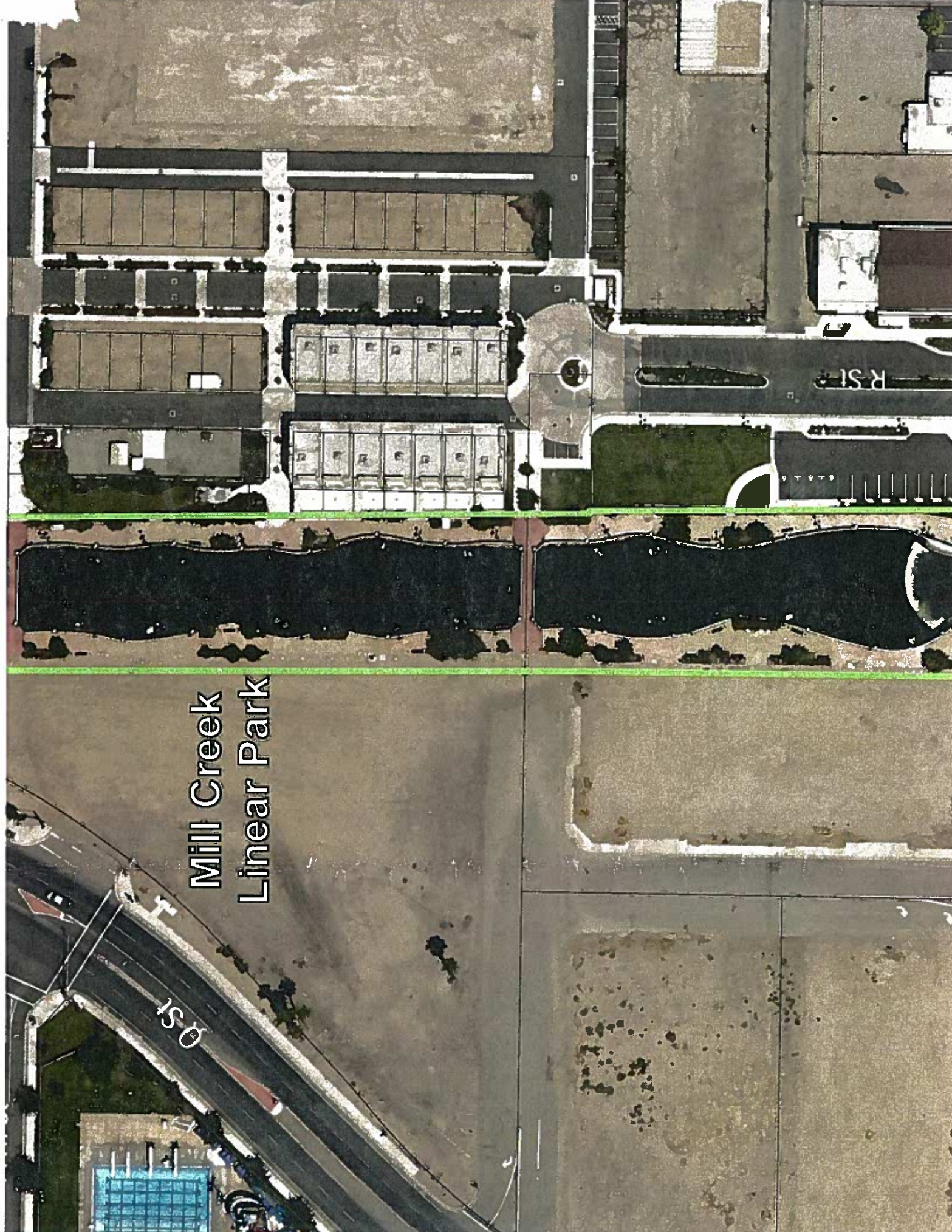


Alan Tardy
City Manager

Enclosures

cc: *Honorable Mayor and City Council*
Virginia Gennaro, City Attorney
Dianne Hoover, Recreation and Parks Director
Doug McIsaac, Community Development Director
Nick Fidler, Acting Public Works Director
Kern River Parkway Foundation
Stephanie Perez, Federal Railroad Administration
Jeff Morales, CHSRA
Diana Gomez, CHSRA





Mill Creek
Linear Park

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