

# Assembly California Legislature



**JIM PATTERSON**  
ASSEMBLYMAN, TWENTY-THIRD DISTRICT

August 2, 2013

The Honorable Adam Gray  
Chair, Joint Legislative Audit Committee  
1020 N Street, Room 107  
Sacramento, CA 95814

Dear Chairman Gray:

We are writing to request an audit of the California High-Speed Rail Authority's processes for acquiring privately-owned land in the Central Valley. On January 14, 2013, the California State Public Works Board authorized the Authority to begin acquiring 356 parcels of prime farm land in Fresno and Madera Counties. This meeting lasted less than 10 minutes. The acquisition of right-of-way is a critical prerequisite before the Authority initiates the largest state public works project in the nation's history, but without adequate oversight, taxpayers may overpay for these parcels, landowners may be underpaid, or the state may acquire more land than necessary. This would unnecessarily displace farmers from the state's most valuable and fertile agricultural land, inflicting permanent damage to California's economic competitiveness.

Though the language of Proposition 1A authorizes the State Auditor to conduct "periodic audits of the Authority's use of proceeds of bonds," no prior audits have reviewed the Authority's right-of-way program. With the project scheduled to break ground this summer, approval of a JLAC request is necessary to immediately address the important questions below.

On March 13, a request was submitted to this Committee to direct the State Auditor to investigate these questions. On the issue of right-of-way acquisition, the Committee determined that it could exercise meaningful oversight over the Authority without approving a new audit:

*Sen. Jackson: If we were to ask you for this information about the process you're planning to use for right of way, would you submit it to the chair of this committee within the next...how much time would you need?*

*[HSRA CEO] Jeff Morales: We could have it up in a few days certainly, yes.*

*Sen. Jackson: Would you be willing to do that?*

*Jeff Morales: Certainly.*

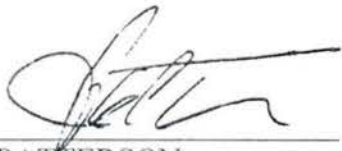
In the 161 days that have elapsed, this information has not been submitted to the Committee. In order for the Legislature to effectively oversee this project, we request that the Committee

approve an audit to review the Authority's policies and protocols for right-of-way acquisition, and address the following questions:

1. Does the Authority have adequate policies and protocols for ensuring the independence of appraisers? Does the Authority exercise appropriate oversight over appraisers?
2. The Authority has signed contracts with 4 firms for right-of-way assistance, at a cost of \$34 million. What role do these contractors play in the land acquisition process? Is it consistent with policies and protocols at other state agencies to use private contractors for right-of-way acquisition? Because two of these contractors are out-of-state firms, do appraisers have sufficient knowledge of California's real estate markets and unique geography to make fair and reasonable offers?
3. What process did the Authority use to assign parcels to contractors? Did this process comply with existing laws and best practices?
4. How many appraisals have been conducted to date? How many notices of decision to appraise have been sent?
5. On April 17, 2013, the Authority entered into a settlement agreement to resolve a lawsuit brought by the Madera and Merced County Farm Bureaus. On July 23, plaintiffs notified the Authority that it was in default of this agreement. Why has the Authority failed to convene a panel of mediators to settle disputes concerning land valuations, as required by the agreement?
6. What role do other state agencies play in providing assistance and oversight (including, but not limited to, Department of Transportation, Department of Finance, Department of General Services, and the State Water Resources Control Board)? Are these roles adequate and appropriate?
7. Because the project design remains at least 85% incomplete, will the Authority acquire more land than necessary for the project? Can the Auditor estimate how much additional land will be acquired to accommodate future design changes?
8. The Authority is sponsoring AB 481 (Lowenthal), which will enable it to generate revenue from the sale or lease of acquired land that is not needed for high-speed rail purposes. How much "nonoperating" land does the Authority project it will acquire? Is this projection reasonable and necessary? For what purposes does the Authority plan to lease this land, and how much revenue does it expect to generate?
9. What factors does the Authority use in determining the impact that a partial acquisition will have on the value of a landowner's remaining property? Are these considerations adequately included within the appraisal?
10. Does the Authority have adequate policies and protocols for landowners to appeal an appraisal value prior to initiation of eminent domain proceedings?
11. The Authority reported to the Legislature on July 1, 2013 that it "is entering into an agreement with the California Department of Conservation (DOC) and the Madera and Merced County Farm Bureaus to assist in obtaining farmland conservation easements from willing sellers located near the high-speed rail alignment between Merced and Bakersfield." Does the agreement adequately provide for independent appraisals prior to purchasing a conservation easement? How many farmland conservation easements have been obtained by the Authority? Is compensation for these easements reasonable?

Thank you for your consideration of this request. Should you have any questions or would like additional information, please do not hesitate to contact us or Daniel Ballon in the Assembly Republican Caucus Office of Policy at (916) 319-3900.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Patterson", written over a horizontal line.

JIM PATTERSON  
Assemblymember, 23<sup>rd</sup> District

A handwritten signature in black ink, appearing to read "Frank Bigelow", written over a horizontal line.

FRANK BIGELOW  
Assemblymember, 5<sup>th</sup> District