

7-29-14
Item #4

From: Albert Perdon [albertperdon@albertperdon.com]
Sent: Thursday, July 17, 2014 2:56 PM
To: Clerk/BOS
Subject: July 29 Board of Supervisors mtg agenda item re High-Speed Rail
Attachments: Perdon letter to Fresno Board of Supervisors with attachment 20140717.pdf

Dear Ms. Seidel,

The attached file (Perdon letter to Fresno Board of Supervisors with attachment 20140717) is submitted to the Board of Supervisors for its consideration prior to, and for discussion at, the Board meeting of July 29, 2014.

Thank you.

Albert H. Perdon, P.E., Civil Engineer
12748 Castleford Lane
Cerritos, CA 90703
310.871.1113

July 17, 2014

Fresno County Board of Supervisors
Room 301, Hall of Records
2281 Tulare Street
Fresno, California 93721-2198

Honorable Chairman Andreas Borgeas, Vice Chairman Judith Case McNairy, and Board Members Phil Larson, Henry Perea, and Deborah A. Poochigian; Honorable John Navarrette, Daniel C. Cederborg and Bernice E. Seidel

At the July 15th Board of Supervisors Meeting, the Executive Director of the California High-Speed Rail Authority stated:

1. Proposition 1A limits the High-Speed Rail Authority's expenditures and work to Phase 1.

Proposition 1A allows planning and construction of segments that are not part of Phase 1 even before construction begins on Phase 1.

2. A recent PPIC poll shows that a majority of Californians support the (Authority's High-Speed Rail) Project

A March 2014 PPIC pole asked, "Do you favor or oppose building a high-speed rail system in California?" The response to the question was 53% favor, 42% oppose, 5% undecided. The survey did not ask for a position on the Authority's Project, which is not the Project promised in Proposition 1A.

The Board should consider Public response to the following additional survey question: "Thinking ahead, how important is the high-speed rail system for the future quality of life and economic vitality of California—is it very important, somewhat important, not too important, or not at all important?" Sixty-seven percent (67%) of the respondents said it is very or somewhat important.

It was suggested that any action the Board takes will likely have no impact on the Authority's decision-making, except that it might influence the Authority's decision on the location of the maintenance center in Fresno County. It was also suggested that Board member concerns are legal issues that should be left for the courts to resolve.

The High-Speed Rail Project approved by the voters in 2008 will not materialize unless and until the Board of Supervisors of Fresno County and of every other county the system passes through, and the City Councils of every city the system passes through, take ownership of the project.

I recommend that you consider the recommendation presented in the Attachment before taking a position on the California High-Speed Train Project at your meeting of July 29, 2014.

Sincerely,



Albert H. Perdon, P.E., Civil Engineer

Attachment

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ATTACHMENT

California High-Speed Train Corridor Development Authority

for Consideration by the Fresno County Board of Supervisors

It is recommended that the Fresno County Board of Supervisors consider a motion calling for the formation of the California High-Speed Train (HST) Corridor Development Authority. This joint powers authority would be composed of the cities and counties through which the high-speed train system approved by voters in the November 2008 General Election will pass. The purpose of the Authority is to take all necessary actions to ensure implementation of the 800-mile High-Speed Train System from Sacramento and the San Francisco Bay Area, through the San Joaquin Valley, Los Angeles and Inland Empire, and ending in San Diego County, in conjunction with high-quality urban development along the corridor that is designed to accommodate future growth, as quickly as possible, and in a manner that meets voter expectations and as authorized in DIVISION 3, SEC. 9. CHAPTER 20. SAFE, RELIABLE HIGH-SPEED PASSENGER TRAIN BOND ACT FOR THE 21ST CENTURY (commencing with Section 2704) of the Streets and Highways Code.

The motion would direct the County Administrative Officer to take the appropriate steps to coordinate formation of the California HST Corridor Development Authority and to initiate its operation, with full Board leadership and community support.

The Board should consider adopting the following findings that give cause for forming the Authority:

1. Formation of the California High-Speed Train (HST) Corridor Development Authority is in the public interest, and it is necessary for achieving the aspirations of member agencies to improve the quality of life, and to meet the needs of California's HST Project.
2. Successful development of the 800-mile HST System approved by voters in the General Election of November 2008 is of critical importance to Authority member agencies; the HST System will enable and help promote orderly growth and future prosperity of member agencies.
3. The HST System will be successful only if its planning, construction and funding is part of an integrated Program that also includes planning, construction and funding of designated new urban growth centers located along the voter-approved HST System corridor.
4. The Authority's formation is required to ensure that the needs and concerns of all member agencies are adequately addressed and resolved to the Authority's satisfaction in a timely manner.
5. The Authority's member agencies must take ownership of the HST Project in order for the HST System to be successful – meaning, take responsibility for its implementation; member agencies have the tools and ability to secure the resources required to ensure timely and effective Program implementation.

The need for the above action is evidenced by the current status of California's High-Speed Rail Project. By its own words, as told to a three-judge panel of the California 3rd District Court of Appeal, the State admits "We can't get this project off the ground. We're stopped."

This proposal sees a continuing role for the State. CHSRA would support the HST Corridor Development Authority by expediting required state agency coordination, reviews and approvals and by helping to resolve state-wide legislative or policy issues.

7-29-14 Item #4

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July 21, 2014

Via Federal Express

Clerk of the Board of Supervisors
Hall of Records
2281 Tulare Street
Third Floor, Room 300
Fresno, CA 93721

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CLERK. BOARD OF SUPERVISORS

Dear Clerk:

The attached is for your meeting of July 29, 2014, a continuation of your July 15, 2014 meeting on High Speed Rail.

I was at the July 15th meeting, spoke at that meeting and this paper is a distillation of the issues that you and the Board were concerned with. I hope it helps.

Very truly yours,



Michael J. Brady, Esq.

THE UPCOMING JULY 29 BOARD MEETING:

**A RECAP OF THE JULY 15 BOARD HEARING ON HIGH SPEED RAIL AND THE
RESOLUTION TO WITHDRAW SUPPORT; COMMENTS ON CONCERNS OF
INDIVIDUAL SUPERVISORS AND ISSUES THAT ARE INVOLVED WITH HSR IN
CALIFORNIA**

Prepared by:
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INTRODUCTION:

The preparer of this paper is Michael J. Brady, Esq. I am the present attorney for the County of Kings and two of its residents in the Tos, Fukuda v. CHSRA case, now pending before Judge Michael P. Kenny of the Sacramento Superior Court. The litigation alleges numerous violations of Proposition 1A and seeks to prevent the project from being constructed. Kings County more than three years ago voted unanimously to oppose the HSR project. I have been working on the HSR matter for nine years and my work has been pro bono.

I testified at length on July 15; many things were said by many people. I thought it would be useful to provide further hard information to you to address your specific concerns. That is the purpose of this paper.

I. THE PROJECT COSTS; THEY HAVE GONE UP DRAMATICALLY SINCE PROPOSITION 1A WAS PASSED IN NOVEMBER, 2008.

When Proposition 1A was presented to the voters, the voters were told that the cost of the STATE-WIDE project would be \$33 billion; after 1A passed, the estimate went up shortly thereafter to \$45 billion (again, state-wide) for the full 800 mile project. Then the project soared to \$110 billion, causing a bit of a panic within the administration in Sacramento, which ordered the Authority to LOWER the costs. They allegedly did, saying that the new estimate was \$68-76 billion. But this was not for the state-wide project. This was for Phase I only (LA to SF). The state wide project includes Phase I and II, and Phase II brings in San Diego, the Inland Empire, San Bernardino area, Sacramento, and Oakland—a huge part of the state.

But suddenly with the "new" estimate, a state-wide estimate of costs mysteriously disappeared, and we heard Mr. Morales say on July 15 that the Authority was not "legally required" at present to give estimates for Phase II. But that did not prevent them from telling us, years ago, what Phases I and II would cost when they were giving fall state-wide estimates (\$33 billion and \$45 billion)! Surely Phase II will not be "free." It is bound to add mightily to an already expensive project. This must explain why many experts now say that the costs of a STATE-WIDE PROJECT will run \$150-200 billion!

PROPOSED QUESTION TO AUTHORITY WITNESSES ON JULY 29:

- You must have some idea of the costs of Phase II. We are entitled to know. Why were you able to estimate its costs at the time of , and within months after 1A was passed, but you claim that you now have no idea? Is this being honest with the voters who are trying to assess the state's financial exposure?

II. THE PARTNERSHIP THAT WAS SUPPOSED TO SHARE THE COSTS ROUGHLY EQUALLY; WHAT HAPPENED TO CAUSE ITS COLLAPSE?

Prop 1A was envisioned to be a three way partnership: Prop 1A bond funds would provide about \$10 billion; the feds would provide 10 billion; and private investors would provide the last third or \$10 billion. The Authority frequently bragged about this and this was obviously a selling point for the voters who would not be so concerned about exclusive state (taxpayer) financial exposure. These representations "nicely and neatly" matched the [then] \$33 billion cost estimate (about a third of that amount from each of the three "partners").

But then the partnership collapsed, leaving the State as the only remaining partner.

The feds: they initially put up \$3.3 billion early on. The Authority for over two years had been telling everyone that the federal government "historically" pays 50% of such costs and that they expected \$17-18 billion from the feds.

But then something dramatic happened. The Congress soured on California HSR (costs, wastefulness, incompetence) and NOT ONE DIME MORE has been forthcoming for the project from the feds. In fact it was worse than that: the House in Washington, D.C., resolved that no more money would be given to California HSR and this refusal to fund California HSR was enacted into law in the last two massive Transportation Bills in Congress—the bills that fund the entire road and transportation network for the entire country. Mr. Morales' "play on words" on July 15 just won't work and he finally conceded that NO ADDITIONAL MONEY has been given to California since the initial \$3.3 billion federal grant more than 4 years ago. And one would have to be naïve to believe that the situation will change soon: does anyone believe that in November, 2014 a new and pro HSR Congress will be elected? The political experts don't seem to think so. And, also to be noted is the fact that the #2 person in the House now is Kevin McCarthy, your neighbor from Bakersfield, who FOR YEARS has been an ardent opponent of the HSR project. This does not bode well for further federal support for California HSR. Effect: the federal "partner" has disappeared, within no prospects for re-involvement with the project.

Indeed, this explains the "no" vote, on July 6, 2012, by Democrats Alan Lowenthal and Joe Simian, the chairman and vice-chairman of the important Senate Transportation Committee, which nursed the project along and oversaw it during all the Prop 1A debates and committee hearing. By then, it was known that the feds would no longer support it. Senator Simian stated on the floor of the Senate that this would leave California as the sole bearer of an \$80 billion debt burden and that we simply could not afford it. He was prescient and right.

PROPOSED QUESTION FOR AUTHORITY WITNESSES:

- With no meaningful prospect for further federal financial support, what are the chances that California will be able to afford what could be a project in excess of \$100 billion in costs?

III. WHAT HAPPENED TO THE PRIVATE INVESTORS? THEY ARE NON-EXISTENT.

The third hoped-for partner was the private investor market. There is an interesting little saga here that predates Proposition 1A. . . before Prop 1A was sent to the voters (months before), the Authority had possession of a report from a distinguished investor group called the Infrastructure Management Group (IMG) which did surveys as to the likelihood that private investors would participate. This report was quite negative. Did the Authority "share" that information with the Legislature which was holding hearings in the face of the LAO'S concern that the project involved serious financial risks to the state?

The IMG pointed out that unless there was STRONG federal backing, the likelihood of private investors coming in was remote. Some of the investors that they surveyed said that the only way they would get involved would be if the State "guaranteed" that a certain stream of revenue would occur. But the LAO quickly pointed out that such a guarantee would be illegal under Proposition 1A, since a subsidy was illegal under that proposition, and a revenue guarantee would involve a state subsidy. Even eminent investors such as Goldman-Sachs were skeptical. This information should have been volunteered PROMINENTLY by the Authority to the legislature; what more relevant evidence could there be when the financial viability of a project is being evaluated by the legislature? Yet, to the contrary, before Proposition 1A went to the voters, and long thereafter, and even today, the Authority still trumpets the high likelihood that private investors will flock to the project.

The proof is in the pudding. . . Here, today, six years after the vote on 1A, NOT ONE SINGLE INVESTOR HAS EXPRESSED INTEREST! And yet, even on July 15, Mr. Morales, responding to Ms. Case's question, was quite optimistic and PROMISED to provide her with a list of these enthusiastic investors.

PROPOSED QUESTION FOR THE AUTHORITY WITNESSES:

- Where is the list? Have these companies specifically committed to invest in this project? What letters or proof of commitment do you have, and are they dated before July 15, 2014? Were the reports furnished to you before and after November 8, 2008, by IMG accurate in saying that the prospects for private investor interest, without a revenue guarantee, were remote? Do you agree that

if the state were to "guarantee" the revenue of HSR to private investors, this world indeed be a "subsidy" forbidden by Proposition 1A?

IV. ARE THE VOTERS GOING TO GET WHAT THEY WERE PROMISED? OR HAS THE PROJECT BEEN HUGELY CHANGED SINCE THE VOTE ON PROPOSITION 1A?

A voter-approved initiative (which Proposition 1A is) is sacred in California. As one of the speakers accurately stated on July 15, it is a sacred contract between the people and the state; its words are gospel. They cannot be changed or altered SUBSEQUENTLY by anyone or any body (including the legislature). They may only be changed/altered by ANOTHER voter-approved initiative. This is CONSTITUTIONAL LAW. See Article XVI, sec. 1, of our State Constitution. This means, of course, that an initiative cannot be changed by the Legislature (through a statute) and certainly not by the Authority, a state agency issuing a business plan adopting the "blended system".

What happened? Voters were promised in 1A that California would be provided with a GENUINE HSR SYSTEM, ELECTRIFIED IN FULL, AND WITH ALL THE COMPONENTS OF A TRUE HSR TRAIN SYSTEM. But that promise was broken.

After the vote, and in April 2012, the Authority altered and changed materially the FRAMEWORK of the state-wide HSR system by adopting what they called the "blended system." The legislature went along. Why was this done? Because there had been panicked at how much the project had ballooned in costs. What did the blended system entail? HSR would share tracks with regular commuter trains and would not have exclusive (dedicated) tracks for HSR statewide. For example in the Bay area, from San Jose to SF the HSR seem would share tracks with five other rail systems, 4 run by Cal Train (an ordinary commuter line) and one by UPRR, a freight operation.

Effect: Impossible to attain the GOALS OF Prop 1A, such as a trip time from SF to LA (absolutely required) of 2 hours, 40 minutes; complete destruction of the "headway" requirements of 1A (distance between trains, number of trains per hour), meaning that instead of having 10-12 trains per hour, you can only have six at the maximum. This reduces income/revenue considerably. All these goals are mandatory; if they cannot be achieved because of what the AUTHORITY ITSELF did by changing what the voters approved, the HSR project cannot be commenced or carried out

The net result is that California voters will not get what they voted for. What will they get? This was answered by Mr. Dan Richards, the Authority Chairman. I was present at a legislative hearing about two years ago; Mr. Richards was being questioned by the eminent Senator Alan Lowenthal, chairman of the all-important Senate Transportation Committee which had overseen the entire project and the crafting of the language of Proposition 1A. Mr. Lowenthal said, "and after ALL THIS, are we going to get high speed rail?" Answer: "No, but you're going to get a lot!"

What this amazing answer meant is that the State had abandoned the idea of a GENUINE ELECTRIFIED HSR TRAIN SYSTEM, and the use of Proposition 1A bond funds had turned into a general "aid to railroad systems" funding plan—not exactly what the voters had in mind!

The Quentin Kopp Declaration: the best evidence of all this is the Quentin Kopp declaration, under penalty of perjury, filed in the Toss litigation against the CHSRA; Judge Kopp is an eminent witness: the "father" of HSR; author of the original bills creating the Authority; the actual chairman of the Authority during the time Prop 1A was being developed; he remained chairman when 1A was being debated (he appeared and answered legislators' questions during committee hearings); he remained as chairman for about a year after Prop 1A was approved. He knew what the legislature intended and he intended to carry out that intent to provide California with a GENUINE HSR system, not some "bastardized" [his words] version. But a bastardized version is what we got, according to Judge Kopp—a plan that would make the minatory retirements of 1A UNACHIEVABLE.

I urge all of you to read the Kopp declaration. It tells a story—the story of HSR in California from a man who was there at all phases, from the early hopeful years to the betrayal. It is a compelling story. You were furnished with a copy for the July 15 hearing. For your convenience, another copy is attached hereto as Exhibit A.

This, therefore has been the greatest betrayal of the voters, and the central reason why support for the HSR system must be withdrawn. We see enough of such betrayals in our public life these days. We have to, as citizens, and responsible public officials filially take a stand against such tactics.

V. THE ACTUAL FUNDING FOR WHAT THE AUTHORITY MUST FIRST BUILD IS INADEQUATE UNDER THE REQUIREMENTS OF PROP 1A; THEREFORE THE PROJECT CANNOT START AT ALL.

The legislature which crafted Proposition 1A was very wise. It knew the abuses that occur in public works projects with cost overruns and violations (remember the Boston Big Dig and the Bay Bridge!). it therefore said this:

- The Authority first had to decide itself what its first "segment" would be [this was allied the first USABLE SEGMENT].
- Then the Authority had to demonstrate that it had enough money in the bank or firmly committed, TO COMPLETE that first "usable segment."

Why did the legislature do this? To ensure that there would be no financial risk to the state; to ensure that when a usable segment (Judge Kopp calls these usable segments

the "building blocks" of the system) is started there will be enough money to COMPLETE what you start, thereby ENSURING THAT THE PROJECT WILL NOT BE ABANDONED AND LEFT UNCOMPLETED with all the terrible blight and damages from uncompleted projects (it does happen).

Next, the Authority DID PICK its first usable segment: it went from Merced to the San Fernando Valley across the Tehachapi's, 300 miles. They had to pick this because a shorter segment (the cheaper and shorter Merced to Bakersfield for example), would have terrible ridership and would be a money loser.

Next question: how much does THAT usable segment cost? Two and a half years ago, the Authority said \$31 billion. In today's market, that has to be revised upwards, and could now be as much as \$35 billion.

Next question: how much does the Authority have in the bank or firmly committed for this usable segment? \$6 billion; 3.3 billion from the feds; 2.7 from the State through Proposition 1A (they cannot get more from 1A because of the matching funds requirement). Well, 6 divided by 35 is about 17% of what they need! They are "slightly short" of what Prop 1A mandates that they have. Allowing them to start poses grave financial risks to the state—something the LAO has said before 1A and on several occasions after 1A passed (also the State Auditor). The LAO said this as recently as March 27, 2014.

Effect: they cannot start the project; given the cutoff of federal funds, no private investor interest, and no massive future bond issue contemplated for this project, it will probably NEVER BE IN A POSITION TO START. Yet, this is exactly the protection that the state built into this project to protect all of its citizens and taxpayers, INCLUDING ALL OUR CITIES AND TOWNS AND COUNTIES, WHICH CAN ILL AFFORD TO CONTINUE SUBSIDIZING THE STATE WHEN IT GETS INTO TROUBLE LIKE THIS—AT THE EXPENSE OF OUR OWN LOCAL CITIZENS. WE ARE, OF COURSE, REFERRING TO THE STATE'S PERIODIC RAIDS ON COUNTY TREASURIES.

Bottom line: the Authority flunks the test on adequate funding. Cap and trade cannot possibly fill the gap, providing only about 1% of what is needed to fill the gap; needless to say, as some of the speakers commented, our voters must be displeased at the prospect of seeing their gasoline prices go up 10 cents per gallon once cap and trade kicks in! And cap and trade would be used to finance the biggest polluter in the state (HIGH SPEED RAIL) during the 25 years of construction and the hundreds of thousands of tons of concrete dust/pollution that will be created. Cap and trade is supposed to reduce pollution not finance the creation of it (there are two lawsuits claiming exactly that, in an effort to prohibit this foolish idea).

PROPOSED QUESTIONS FOR AUTHORITY WITNESSES ON JULY 29:

- Your usable segment, even with your own numbers, will cost \$31 billion as of two and a half years ago;
- Do you have \$31 billion in the bank or committed as of now? Please explain.
- Do you propose to start the project on your usable segment without having the \$31 billion in the bank or firmly committed?
- Or, are you hoping to start a small part of the usable segment that you picked, coming back someday when you have raised more money , to finish the entire 300 miles that you picked? Do you think that is permitted under Prop 1A? didn't Judge Kenny rule against you on that point.

VI. WHAT THE AUTHORITY PROPOSES TO BUILD IS NOT EVEN ELECTRIFIED!

It should be obvious to any sane person that a HSR train system has to be electrified. This is true all over the world. It is REQUIRED under 1A.

Yet, amazingly, in all its business plans the Authority has been consistent in saying that the first part of what it will build will be CONVENTIONAL RAIL ONLY. Who would ever say that the voters intended that. This is but another example of Judge Kopp's saying that the Authority proposes to "bastardize" the system, denying voters their wishes and intent.

The only reason for this foolish and illegal choice: it is cheaper to do conventional rail, and, as set forth above, the Authority is not exactly rolling in surplus funds.

Note that only 6 weeks ago, the Authority's own consultants reported that Fresno-Bakersfield had gone up by \$1 billion!

But, because a non-electrified system violates Prop 1A, the project cannot be allowed to start and support for such a project should be withdrawn.

PROPOSED QUESTIONS TO AUTHORITY WITNESSES ON JULY 29:

- Why will you not be building a fully electrified HSR train system that is electrified and with all the components of a HSR system FROM THE OUTSET?
- Will you not then have to come back and electrify it at a later date? Is that wasteful?

- Why do you think that Proposition 1A permits you to do this?
- Isn't there a real risk that if you do this all over the state, all Proposition 1A money left will be exhausted and used to modernize conventional rail systems instead of creating a genuine HSR system?

VII. THE PROJECT CANNOT START BECAUSE THE AUTHORITY HAS NOT OBTAINED ALL THE ENVIRONMENTAL CLEARANCES FOR THE USABLE SEGMENT THEY PICKED.

Here again, the legislature which crafted 1A was wise: they knew that projects start and then an animal or a plant that is endangered is discovered and the project is shut down for years (the central valley water problem and the fish for example). To avoid this, the legislature put in Proposition 1A an absolute requirement that no construction of the usable segment that the Authority selected could start until ALL OF THE ENVIRONMENTAL CLEARANCES FOR THAT USABLE SEGMENT HAD BEEN COMPLETED.

So, where do we stand? The Authority allegedly only has Merced to Bakersfield clearances; nothing beyond Bakersfield, including the incredibly difficult trek over the Tehachapis! This will take years to complete; but Proposition 1A requires exactly that before commencement of construction ANYWHERE on the usable segment. This is a wise and protective requirement. The legislature was looking out for our welfare and the protection of the state from financial risk. As Mr. Perea said in his May 6, 2012 letter: there need be no rush to construction until these concerns were resolved.

PROPOSED QUESTIONS FOR AUTHORITY WITNESS

- Do you in fact have all the environmental clearances for the 300 mile \$31 billion usable segment that you picked?
- So you take the position that you can start on your usable segment without obtaining all the environmental clearances first?

VIII. THE AUTHORITY WILL NEVER BE ABLE TO COMPLY WITH THE MANDATORY REQUIREMENT THAT THEY TRANSPORT THE PASSENGER FROM LA TO SF IN 2 HOURS 40 MINUTES. THEREFORE NO PART OF THE PROJECT CAN BE ALLOWED TO START.

One of the most important, if not THE most important promises, in 1A to the voters was the promise to get the passenger from LA to SF on a nonstop train in 2 hours and forty minutes. Every rider wants to know "how quickly can I get there?" It was a huge selling point to get the proposition passed.

And yet we heard Mr. Morales quibble on July 15 when he said that you only have to "design" the system to do that, not "really" physically accomplish the goal. How cynical; doesn't this make a mockery of the promise?

The Authority DID DESIGN the system to make the time goal: by hurdling the train down the Tehachapi's at 225 mph by going through Bakersfield and Fresno at 225 mph! by CLIMBING the Tehachapis for 30 miles while still going 150 mph at the summit! These are impossible numbers which defy safety and modern braking systems. And yet their little computer model/simulator HAD to do this to meet the 2 hour 40 minute goal. Even the LAO said as recently as March 27, before the Senate Transportation Committee that physically, the goal cannot be achieved, and even in their most recent business plan the Authority says that in real life/real time 2 hours, 40 minutes is not achievable.

We challenge any reasonable citizen to say that the voters intended that this important goal was intended to be only theoretically achievable with no attention to scientific reality , real life, or the importance of swift travel to the train passenger.

Our expert , a PhD in engineering, and who worked on the Korean HSR and Spanish HSR systems, plotted every mile of the trip and says that the goal of 2 hours and 40 minutes will not be achieved by the Authority under this plan. Now, there MAY be some route/plan, but opt this one, and THIS is the one that is under examination. Most experts also say that this trip from SF to LA will wind up taking 4-5 hours.

PROPOSED QUESTIONS FOR AUTHORITY WITNESSES ON JULY 29

- In your computer simulation, don't you have the train going DOWN the Tehachapis at 220 mph?
- And doesn't your computer model call for the train to go through larger sections of the central valley a 220 mph, including the urban parts of Bakersfield and Fresno?
- And isn't it true that Dan Richards said that this would never occur and that the trains would not exceed 80 mph when going through those cities? If so, how do you meet your required goal of 2 hours and 40 minutes?

IX. THE HSR SYSTEM WILL VIOLATE THE NO SUBSIDY RULE; IT THEREFORE CANNOT BE STARTED.

Prop 1A says that there absolutely can be NO FEDERAL LOCAL, OR TATE SUBSIDY FOR OPERATING COSTS. This was an important INDUCEMENT to gain voter support (like the trip time promise and he promise that nothing could be started unless three was

enough in the bank to finish it). It is a tough requirement, and the Authority flunks the test.

Profit is a combination of revenues and costs.

The revenues for the HSR system are limited and capped; the Authority represents that they will not charge (the fare) more than 80% of what the competing airlines charge. That comes to about 27 cents per passenger mile. That is the revenue.

They THEN say that their costs will only be 10 cents per passenger mile and therefore (magically) a profit will be returned!

The Acela example: Acela, between Washington and Boston is the loosest thing that we have to HSR. Its revenues are NOT capped, and East Coast passengers are willing to pay high fares. Their COSTS are 60 cents per passenger mile—SIX TIMES HIGHER THAN CALIFORNIA HSR SAYS THEIRS WILL BE!

This is unbelievable—not credible. All railroads pay for generically the same things: salaries; pensions; fuel cuss; income taxes; maintenance. Amtrak operates with a huge subsidy, as do other railroads.

To say that California HSR will do six times better than Acela in operating costs defies reality, defies rational belief and experience.

Mr. Morales was wrong on July 15 when he said that most systems in the world operate at a hefty profit. They don't. A few years ago, the continent of Europe subsidized its rail systems to the tune of almost 68 billion dollars/year. European railroads use "creative" accounting methods, that ARE NOT PERMITTED IN THIS COUNTRY. The accounting practices that will be applied to the CHSRA are AMERICAN, not creative European, methods. Because its revenues are capped (cannot go higher, lest competitive edge be destroyed with the airlines), the costs have been artificially pushed town to a ridiculous level that defies common sense and experience.

The HSR costs are much more likely to equal Acela's. that means that HSR will require a huge government subsidy, prohibited by 1A.

For additional analysis of the comparison between California HSR and Acela, see Exhibit B, attached.

PROPOSED QUESTIONS FOR AUTHORITY WITNESSES

- You say that your operating costs will be about 1/6 those of Acela.

- Why is there such a dramatic difference? What is so special about your operation and what you will have to pay compared to those cuss paid by Acela?
- Do you take the position that the European accounting methods applying to HSR will be permitted to be used in the U.S. by the FRA?

X. THE RIDERSHIP NUMBERS PROVIDED BY THE AUTHORITY ARE A JOKE.

Ridership numbers ARE important in evaluating the financial viability of a HSR system. Credibility and believability are also important.

When the Authority was "campaigning" for passage of Proposition 1A , it told the voters that a many as 117 MILLION people would ride HSR per year! That means that every man, woman , and child in California would have to ride the train 3 ½ times a year! Realizing its grave error, the Authority has revised ONLY DOWNWARDS its suspect ridership figures to the point that they are now about 10% of what they originally were (117 million). This demonstrates a serious pattern of dishonesty that has been seen in many other areas of this project. We are not being told the truth.

We WERE told however that the reason the Authority did NOT choose Merced to Bakersfield as their usable segment was because Prop 1A required ridership FOR THE USABLE SEGMENT TO BE ADEQUATE, and Authority people said that the enteral valley was a LOSER on ridership numbers and therefore they had to go all the way to the LA basin to get good ridership numbers—hence the 300 mile usable segment that they picked. But their conduct and the suspect numbers belie their claims. Their ridership numbers, today in comparison to their original forecasts during the "campaign" flunk the test.

XI. RE-DESIGNATING THE USE OF THE REMAINING AMOUNT IN PROPOSITION 1A BOND FUNDS; A POSITIVE PROPOSAL:

This project is destined for failure; it is not financially viable and is a betrayal of the voters. The voters have turned against it in big numbers.

Here is an idea that is simple, doable, and legal: step by step:

1. The legislature crafts a new initiative that says this: "the funds remaining in Proposition 1A (about \$8.5 billion) are hereby re-designated for use in California water rejects and for freeway improvements and repairs (highway 99!);
2. Then the measure goes to the voters; no signature gathering is required when an initiative is crafted by the legislature;

3. The voters approve; they love trying to help the farmers and the agricultural sector; and everyone knows what terrible shape our famed freeway system is in!
4. It's a win-win.
5. This is why this kind of a REVOTE will work. But the revote has a positive alternative.
6. This could be done next year.

CONCLUSION

On July 15, I said that in May, 2012, you expressed serious concerns with the HSR project, and you outlined them (Mr. Pere's letter of May 6).

These specific concerns were never really addressed (a pattern often followed by the Authority and noted by Chairman Borgeas on July 15). But more importantly, the situation has DETERIORATED terribly since May 2012, and here has been a huge change of circumstances. A state-wide HSR project is now not viable financially and otherwise. Nothing is going to change that situation which only gets worse, UNLESS the voters of this state are willing to take on a NEW BURDEN of 150 billion dollars. What responsible public servant could ever promote that?

You should support the resolution and simply WITHDRAW YOUR SUPPORT FOR THE CALIFORNIA HSR PROJECT AND, IF YOU WISH, SUPPORT A REVOTE AS OUTLINED ABOVE.

A handwritten signature in black ink that reads "Michael J. Brady". The signature is written in a cursive, flowing style with a large, sweeping flourish at the end of the name.

Michael J. Brady, Esq.
1001 Marshall St #500
Redwood City CA 94063
mbrady@rmkb.com
650 780 1724

EXHIBIT A

COPY

1 MICHAEL J. BRADY (SBN 40693)
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4

5 Attorney for Plaintiffs
JOHN TOS; AARON FUKUDA;
6 AND COUNTY OF KINGS

COUNTY IS EXEMPT FROM
FILING FEES PER GOV. CODE
SECTION 6103

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SACRAMENTO

10
11 JOHN TOS, et al.,
12 Plaintiffs,
13 v.
14 CALIFORNIA HIGH SPEED RAIL
AUTHORITY, et al.,
15 Defendants.
16

CASE NO. 34-2011-00113919

DECLARATION OF QUENTIN L. KOPP

Trial Date: May 31, 2013

17 I, Quentin L. Kopp, declare and say:

18 1. I reside in the City and County of San Francisco. I was admitted to the State Bar
19 of California in January, 1954, and am presently an inactive member. I engaged in trial practice
20 in San Francisco and other California counties from approximately December 20, 1955, until
21 December 31, 1998, prior to my appointment to the San Mateo County Superior Court. I retired
22 from the San Mateo County Superior Court in February, 2004, entered and served in the Assigned
23 Judges' Program of the California Judicial Council for over six years, and ended my participation
24 in that program in December 2010. I am presently a member of the American Arbitration
25 Association. I also served in the California State Senate from December 1, 1986, until
26 November 30, 1998, and as a member of the Senate Transportation Committee for 12 years.
27 From 1987 until 1998, I was Chairman of the Senate Transportation Committee. I also was a
28 member of the Metropolitan Transportation Commission from 1977 until my election to the

1 California State Senate in 1986, and served as Chairman of such Commission for two years
2 during that period of time. I was a member of the San Francisco Bay Area Rapid Transit District
3 governing board, appointed by the San Francisco Board of Supervisors, from January, 1973 until
4 such Board became an elected body in November, 1974, and was also a member and eventual
5 Vice President of the Board of Directors of the Golden Gate Bridge, Highway and Transportation
6 District from 1976 until election to the California State Senate in 1986. I have personal
7 knowledge of the facts stated herein, and, if sworn as a witness, would and could competently
8 testify thereto.

9 2. I have been involved with the planning and implementation of a California high
10 speed train system since 1992, and served as a member of the California High Speed Rail
11 Authority ("Authority") from June 2006 until March 2011.

12 3. I initiated the legislative action to establish high speed rail ("HSR") in California
13 in 1992 with a bill creating the HSR Commission. Such bill was vetoed by then-Governor
14 Pete Wilson. In 1994, I introduced, and there was enacted, a measure establishing a California
15 HSR Committee to evaluate whether high speed rail was (1) desirable and (2) feasible in
16 California. By the term "high speed rail," I refer to electrified trains capable of speeds as fast as
17 220 miles per hour.

18 4. The California HSR committee members were appointed by then-Governor
19 Pete Wilson. Such committee analyzed the issues of desirability and feasibility, and reported to
20 the Governor and Legislature in early 1996 that high speed rail was both desirable and feasible in
21 California. That same year, I introduced legislation creating the present Authority.

22 5. In August 2006, I was elected Chairman of the Board of Directors of the Authority
23 and served continuously in that responsibility through 2008 and until on or about July 1, 2009.
24 During the period of such chairmanship, necessary legislative acts to implement a high speed
25 train system occurred. In that period, Assembly Bill No. 3034 (AB 3034), involving provisions
26 in the California Public Utilities Code and Streets and Highways Code, was developed as integral
27 to submitting a \$9,950,000,000 State General Obligation Bond to California voters for approval
28 on November 4, 2008. Such General Obligation Bond had been authorized for voter action by the

1 Legislature and then-Governor in 2002, but because of external events, that ballot measure was
2 postponed, first, to the 2004 State General Election, then to the 2006 State General Election, and,
3 finally, to the 2008 State General Election, all without amendments of the type contained
4 eventually in AB 3034.

5 6. As Authority Chairman, I appeared several times before legislative committees in
6 the Assembly and the State Senate testifying on HSR plans. The Senate Transportation
7 Committee, then under the chairmanship of State Senator Alan Lowenthal, particularly
8 participated in developing the statutory language of AB 3034 and, hence, the language of the
9 underlying ballot measure which became known thereafter as Proposition 1A. I was familiar with
10 the concerns of various legislators and professed objectives and desires concerning language of
11 Proposition 1A. I was also well-aware of the intent of the Authority in conforming its
12 implementation of HSR plans to satisfy legislative concerns and the Authority's ability to fulfill
13 promises that would be made and were made to California voters in the November 4, 2008,
14 General Election.

15 7. In my opinion, the HSR project, as it has evolved in the 2012 Authority's Business
16 Plan, is no longer a genuine HSR system, as covenanted to California voters and the Legislature.
17 Instead, it has been distorted in a way directly contrary to the high speed rail plan the Authority
18 attempted to implement while I was Chairman, namely, a true HSR system containing all the
19 features, terms and protections desired by the Legislature and honoring restrictions placed upon
20 use of Proposition 1A bond proceeds by the Legislature. Accordingly, it is my opinion the
21 project is not lawfully eligible to receive Proposition 1A bond funds.

22 8. Proposition 1A was approved by a majority of California voters on November 4,
23 2008, as a bond measure designed to finance part of the cost of HSR in California in conjunction
24 with federal funds, local public funds, regional public contributions and money from private
25 investors. The vast proportion of the \$9,950,000,000, to wit, \$9,000,000,000, was for genuine
26 HSR. The remaining \$950,000,000 was allocated to eligible recipients for capital improvements
27 only to inner-city and commuter rail lines and urban rail systems providing direct connection to
28 HSR or that are part of construction of the HSR system or provide capacity enhancements and

1 safety improvements.

2 9. As pointed out by the Legislative Analyst in the Official Voter Information Guide,
3 Proposition 1A requires “accountability and oversight of the authority’s use of bond funds
4 authorized by the measure for a high-speed train system.” (Emphasis added.) The Legislative
5 Analyst also noted that of the \$950,000,000 for improving other passenger rail systems or
6 allowing riders to connect to HSR, \$190,000,000 was designated to improve inner-city rail
7 services and \$760,000,000 was specified for other passenger rail services including urban and
8 commuter rail. No part of the \$9,000,000,000 for HSR was designated for urban or commuter
9 rail. The Legislative Analyst iterated that in 2006, the Authority estimated total costs of the entire
10 HSR system would amount to approximately \$45,000,000,000.

11 10. In May, 2007, the Authority had decided that Phase I of HSR is the corridor
12 between San Francisco and Los Angeles and Anaheim. It also decided that Phase II would extend
13 HSR from Los Angeles to San Diego on the south and from Merced to Sacramento on the north.

14 11. Both AB 3034 and Proposition 1A require the project to be built in usable
15 segments. Streets and Highways Code section 2704.01(g) defines a “usable segment” as “a
16 portion of corridor that includes at least two stations.” The full meaning of “usable segment” is
17 shown through its repeated use in the extensive statutory provisions in sections 2704.08(c) and (d)
18 of AB 3034 (incorporated into Proposition 1A) that delineate the mandatory provisions of the
19 detailed Funding Plans the Authority is required to approve. Thus, section 2704(c) requires the
20 Authority to approve and submit to the Legislature, the Director of Finance, and the Peer Review
21 Group, “a detailed Funding Plan for that corridor or a usable segment thereof” that meets the
22 requirements of subsections (A) through (J) – each of which (except for subsection I) specifies
23 that the requirement must be met for “the corridor or usable segment thereof.” These mandatory
24 provisions include:

25 (D) The sources of all funds to be invested in the corridor, or usable
26 segment thereof, and the anticipated time of receipt of those funds
27 based on expected commitments, authorizations, agreements,
28 allocations, or other means.

(E) The projected ridership and operating revenue estimate based
on projected high-speed passenger train operations on the corridor

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or usable segment.

...

(H) The corridor or usable segment thereof would be suitable and ready for high-speed train operation.

...

(J) The planned passenger service by the authority in the corridor or usable segment thereof will not require a local, state, or federal operating subsidy.

Essentially the same provisions are repeated in the Funding Plan required by subsection (d), the provisions of which must be met before the Authority can commit to the expenditure of Proposition 1A bond funds for construction.

Accordingly, at the meeting of the Authority's Board of Directors on December 2, 2010, Deputy Attorney General George Spanos advised the Board that the proposed construction of a section of track between north of Fresno to north of Bakersfield was not a "usable segment" within the meaning of Proposition 1A, but it would be a subset of a "usable segment." That legal advice conformed to my understanding of "usable segment," both then and at all times since.

Such definition is part of Proposition 1A.

12. A usable segment cannot be commenced in terms of construction until adequate funding for that usable segment is obtained or committed; such funding must be sufficient to ensure completion of that particular usable segment. The purpose of such provision is protection of the State from risks that a portion of the system would be abandoned or uncompleted because of lack of money to finish construction. Such rigid funding protections are an integral part of the statutory scheme and ballot measure. The present HSR plan does not contain those protections. The Authority itself describes the alleged usable segment it proposes to build in the Central Valley as running from Merced to the San Fernando Valley, and represents it will cost \$31,000,000,000. That amount of money has not been secured by the Authority and is not committed by any state, federal, local or private investor source. The United States House of Representatives, in its most recent transportation bill, specifically eliminated California from further funds for HSR.

1 13. Streets and Highways Code section 2704.09(a) mandates that the high speed train
2 system constructed under the Streets and Highways Code and Proposition 1A “shall be designed
3 to achieve” certain characteristics, including electric trains capable of “sustained maximum
4 revenue operating speeds of no less than 200 miles per hour.” Streets and Highways Code section
5 2704.09(b), also incorporated in Proposition 1A, specifies maximum nonstop service travel times
6 for seven different corridors, including San Francisco to Los Angeles Union Station in two hours,
7 40 minutes. Streets and Highways Code section 2704.09(c), also incorporated in Proposition 1A,
8 mandates achievable operating “headway” (time between successive trains) of five minutes or
9 less. Streets and Highways Code section 2704.09(f) requires that for each corridor described in
10 section 2704.09(b), passengers shall be able to travel “from any station on that corridor to any
11 other station on that corridor without being required to change trains.” (Emphasis added.) Streets
12 and Highways Code section 2704.08(c)(2)(J) effectively prohibits passenger service by the
13 Authority in any usable segment which requires a local, state or federal operating subsidy. That
14 provision is incorporated in Proposition 1A. Proposition 1A and its statutory predicate (AB
15 3034) require each usable segment to be suitable and ready for genuine HSR operation, electrified
16 and containing all components of a genuine HSR system. As HSR is now planned, no
17 electrification is provided for the first alleged usable segment in the Central Valley, (a 130-mile
18 section of track from south of Merced to north of Bakersfield) predicted to cost approximately
19 \$6,000,000,000 and financed by Proposition 1A bond proceeds and federal funds from the
20 American Recovery and Rehabilitation Act of 2009. I have never read an Authority explanation
21 for building a conventional rail segment, or segments, without the components of a genuine HSR
22 system. Such a tactic contravenes the Authority’s intent in submitting Proposition 1A to
23 California voters on November 4, 2008. Although the Authority’s current business plans indicate
24 it claims such conventional rail segment is only “preliminary” and that the Authority will at some
25 unspecified time electrify such segment, there exists no legal justification for such a plan or
26 claim, and such plan completely violates the Authority’s intent and its representations to the
27 Legislature and California voters. Furthermore, it appears wasteful to spend approximately
28 \$6,000,000,000 on a conventional rail segment, then return years later to modify it and replace it

1 with a fully compatible electrified genuine HSR segment. Finally, the aforementioned first
2 construction segment cannot itself qualify as a “usable segment” because it is not electrified.
3 Statutory schemes and the Authority’s intent in 2008 were clear, to wit, build qualified (under
4 statutory definition) usable segments, one at a time, and do not begin a new usable segment until
5 funds are committed and sufficient for completion of the next usable segment, with electrification
6 of every segment from the outset.

7 During all my time with the Authority I never participated in any discussions, agreements,
8 authorizations, or understandings that would incorporate the concept of conventional rail
9 segments into the definition of a “usable segment,” even on an interim or preliminary basis; nor
10 was there ever any agreement, intent, or understanding that conventional rail could come first as
11 part of a blended or phased system with genuine high-speed rail to be built later. Such an
12 inclusion would contravene the Authority’s intent in submitting Proposition 1A to California
13 voters on November 4, 2008. Statutory schemes and the Authority’s intent in 2008 were clear, to
14 wit, to build in qualified (under statutory definition) usable segments for high speed rail, and only
15 high speed rail.

16 My comments above with respect to lack of legal authorization for conventional rail relate
17 to the \$9,000,000,000 portion of Proposition 1A bond funds, and not to the \$950,000,000 portion
18 of those bond funds. The \$950,000,000 portion is allowed to be used to improve/modify
19 conventional rail systems in California; that specific authorization for those funds to be used for
20 conventional rail necessarily implies that the \$9,000,000,000 portion was not to be used for that
21 purpose, and this was always my intent and understanding as Chairman of the Authority in
22 attempting to carry out the Legislature’s intent, the Authority’s then intent, and the intent of the
23 voters in passing Proposition 1A.

24 14. Under the Authority’s present business plan, the Authority has adopted a scheme
25 to use Proposition 1A bond proceeds for a so-called “blended” system. It has effectively diverted
26 approximately \$2,000,000,000 of Proposition 1A bond funds and matching funds, with plans to
27 deliver this amount to the Los Angeles Basin (to Metrolink and related rail agencies there) and to
28 Caltrain on the San Francisco Peninsula, so that these Northern and Southern California

1 commuter operations (referred to as “bookends” in the legislation) can obtain various operational
2 improvements and so that Caltrain can electrify itself. The Authority refuses to proceed with the
3 plan approved by the pre-2012 Authority Board of Directors to obtain sufficient real property to
4 build HSR on its own dedicated tracks. The “blended” system forces HSR and Caltrain to share
5 existing right-of-way and tracks from San Francisco to Gilroy. That means the Authority will be
6 unable to comply with Streets and Highways Code section 2704.09(c) in achieving operating
7 headway time between successive trains of five minutes or less. It also means the Authority will
8 violate Streets and Highways Code section 2704.09(f) which requires that passengers shall have
9 the capability of traveling from any station on each corridor to any other station on that corridor
10 “without being required to change trains.” (Emphasis added.) Both of those provisions are
11 incorporated in Proposition 1A, as noted above. The Authority’s present business plan will
12 require a rider from San Francisco to Los Angeles and Anaheim to board Caltrain in San
13 Francisco, then leave Caltrain to board a theoretical HSR train from San Jose (or Gilroy) to a
14 station in Los Angeles County such as Sylmar, and change trains again to a Metrolink train to
15 arrive in Los Angeles or Anaheim, whichever is the rider’s destination. Such a deviation from
16 Proposition 1A’s explicit requirement of no change of trains in the corridor from San Francisco to
17 Los Angeles Union Station consequently renders it doubtful that Streets and Highways Code
18 section 2704.09(b)(1) mandate of maximum “non-stop service travel” time for the San Francisco-
19 Los Angeles Union Station corridor of two hours, 40 minutes can be performed.

20 15. On July 6, 2012, as stated above, the Legislature approved seizure of
21 approximately \$1,000,000,000 from Proposition 1A bond proceeds for use, as described above,
22 for regional and commuter rail transit purposes on the San Francisco Peninsula and in Southern
23 California. Such diversion of funds from the Central Valley undermines funding prospects for
24 that area, rendering risk of non-completion much higher. Such diversion is also contrary to the
25 Authority’s own intentions in 2008 in presenting the proposed General Obligation Bond to voters
26 on November 4, 2008, and contrary to the Legislature’s concern about increasing financial risk
27 from an uncompleted project.

28 16. The statutory scheme in Proposition 1A assured voters there would be no state,

1 local or federal operating subsidy for HSR. I repeatedly assured groups of voters of that statutory
2 and bond measure prohibition. The current plan ignores that prohibition. For HSR to succeed
3 financially, it must use dedicated trackage reserved exclusively for HSR as is the case in all
4 countries with HSR. HSR will not succeed financially if it must share tracks with conventional or
5 commuter rail. As noted, without its own dedicated tracks, not nearly as many HSR trains can
6 operate per day. The “track-sharing” arrangement with Caltrain represents one example (Los
7 Angeles to Anaheim represents another) of the Authority’s current alteration of the project from a
8 genuine HSR system to a distortion of such, using such terms as “blended system” to describe the
9 present plan. Those concepts contravene the Authority’s representations to the public that a true
10 HSR system would be built with all \$9,000,000,000 in bond money from Proposition 1A spent
11 for exactly that. To me, the Authority Chairman during all the planning and pre-November 4,
12 2008 efforts regarding the bond measure, this constitutes the greatest betrayal of all in the context
13 of the original intent and promises to voters. The project, as now planned rather than what was
14 promised, constitutes a distortion and mangling of California’s HSR project and promises to
15 California voters.

16 17. The Authority has also participated by approval in another violation of
17 Proposition 1A and Streets and Highways Code sections 2704.095(a)(1) and (d) which, as stated
18 above, allocate \$950,000,000 of bonds authorized by Proposition 1A to eligible recipients for
19 direct connection to the HSR system. Section 2704.095(d) mandates that funds allocated
20 pursuant to the subsection shall be used to pay or reimburse the cost of providing or improving
21 “connectivity with a high speed train system.” On or about June 8, 2012, the Authority was
22 presented with information showing that \$61,300,000 of such money was allocated to the so-
23 called “Central Subway Project” in the City and County of San Francisco, based upon a planned
24 HSR station stop at Fourth Street and King Street, San Francisco. Prior to 2012, the Authority’s
25 plans, while premised upon a HSR terminal at the so-called Transbay Terminal located at First
26 Street and Mission Street in San Francisco, also provided for the aforementioned Fourth Street
27 and King Street station (the present Caltrain San Francisco terminal location) because the
28 Transbay Terminal could not physically accommodate 10-12 HSR trains per hour plus all arriving

1 Caltrain trains. Prior to the Authority's plan released publicly on April 2, 2012, the Authority's
2 business plans were based upon 10-12 trains arriving in San Francisco during peak hours from
3 7:00 until 10:00 a.m. and 4:00 until 7:00 p.m. The present Caltrain terminal, which the Authority
4 prior to April 2, 2012, had planned to utilize, will now be "connected" to HSR by the Central
5 Subway. The Central Subway Project does not, however, connect with HSR or improve
6 connectivity with HSR because the current plan of the Authority eliminates any station at Fourth
7 Street and King Street in San Francisco.

8 Furthermore, the Central Subway Project changes the route of an existing San Francisco
9 Municipal Railway light rail line (called the T Third Line) and by doing so eliminates the
10 segment of that line which would connect to the HSR system at the San Francisco Transbay
11 Terminal. In short, the \$61,300,000 allocation of HSR Proposition 1A connectivity funds would
12 finance a project which not only fails to connect to HSR, but disconnects an existing light rail line
13 from HSR. Instead of providing or improving "connectivity with the high-speed train system," it
14 destroys connectivity in degradation of section 2704.095(d). In fact, in June, 2011, \$61,300,000
15 from the \$950,000,000 of so-called connectivity funds described above were allocated to the
16 Central Subway Project in San Francisco and included in the proposed State Budget Act of 2011-
17 12 for distribution to the San Francisco Municipal Railway Central Subway Project only to be
18 vetoed by Governor Edmund G. Brown Jr. who stated that the Central Subway Project appeared
19 to be "unrelated to the high-speed rail project or an integrated rail plan." I am informed and
20 believe that following the Authority's current business plan public release on April 2, 2012, the
21 California Transportation Commission by electronic mail informed all applicants for money from
22 the aforementioned \$950,000,000 portion of Proposition 1A that new applications for any such
23 funds must be received by May 1, 2012, and stated that the projects submitted must be consistent
24 and have a direct connection to the HSR system. The California Transportation Commission
25 thereafter allocated \$61,300,000 to the San Francisco Municipal Railway Central Subway Project.
26 The current Authority business plan which eliminates any station connecting in San Francisco to
27 the Central Subway and provides \$61,300,000 for the Central Subway Project constitutes an
28 illegal expenditure under Proposition 1A.

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18. I am informed and believe that the failure to proceed with dedicated tracks on the San Francisco Peninsula for HSR has caused the Authority business plan now to project that a maximum of four trains per hour will arrive in San Francisco during the peak hours mentioned above, which will have a resultant effect of reducing ridership and thereby preclude the Authority from operating without a state, local or financial operating subsidy, in violation of Proposition 1A and Streets and Highways Code section 2704.06(2)(J).

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed on this 15th day of February, 2013, at San Francisco, California.

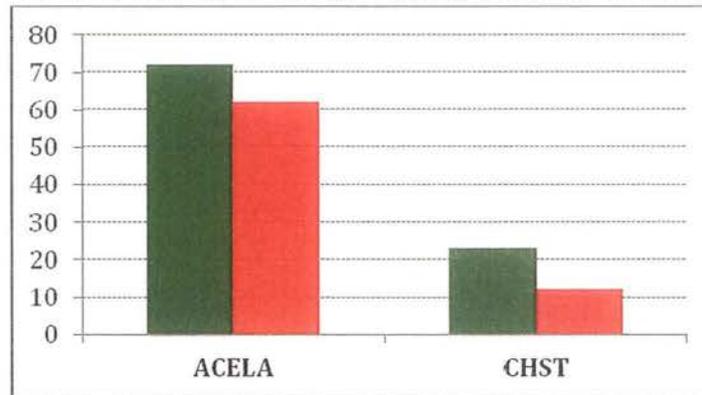

QUENTIN L. KOPP

EXHIBIT B

Acela versus the California High-Speed Train (CHST)

A one-way, reimbursable Acela ticket between New York and Washington DC on America's 150mph train will be about 72¢ a mile. The California High Speed Rail Authority (CHSRA) promises future CHST passengers between LA and SF will pay less than a third of that per mile – 23¢. Acela might be profitable as its operating costs per mile are about 62¢. CHSRA, which legally must be operationally profitable, has no operating experience yet claims their system will have a gross profit margin of about 50%, and it will operate at a cost of 11-12¢ per mile.

Ticket Charges & Operating Costs Per Mile



CHSRA never allowed even the U.S. Government Accountability Office (GAO) to review its detailed operating cost estimates and models. CHSRA claims the CHST's speed will allow more trains per hour, lowering crew costs: yet CHST's higher speeds (+200mph) raise the electrical power, track, trackbed and rolling stock maintenance costs. CHSRA has never explained how the CHST can be profitable at such low per mile ticket prices and operating costs.

CHSRA got itself into such an indefensible position by trying to seem competitive with California's relatively low costs of driving and LA-SF airfares (about 29¢ per passenger mile, DOT's mandated metric). Where high-speed trains now operate, gas prices are 2-3 times those in California; but CHST has to go head-to-head with local pump prices, not those in Europe or Asia.

Prop1A voters were told a one-way CHST ticket between SF and LA would cost about \$50 (14¢ per mile), based on CHSRA claiming its fares would make CHST profitable at 50% of airline fares per mile. After the 2008 vote, CHSRA raised the SF-LA ticket price to 83% of airfares; and as of 2014, LA-SF passengers would pay 65% more (\$83) than promised, but still less than a third of the prices Acela's passengers currently pay.

CHSRA's proposed fares and estimated operating costs are 'outliers' to the worldwide high-speed rail experience and especially Acela's.

Further Reading On Fares & Operating Costs:

Worldwide fares and operating costs for high-speed rail were studied in 2012 and published in "To Repeat, CHSRA's Train Will Need A Subsidy Forever." Take special note of Figure 5, page 7. Accessed at:
<https://www.sites.google.com/site/hsrcaliffr/home/2-1-major-reports---2012-plan/08-12-new-report>

For an analysis of how much passengers pay worldwide, and how much more Central Valley passengers will pay than those between the SF and LA downtowns see: 'Fleecing' Local High-Speed Train Riders While Big City Executives Ride Cheaper" – especially Figures 1, 3 and 4. Accessed at:
<https://www.sites.google.com/site/hsrcaliffr/home/briefing-papers/01-2014-fleecing-local-high-speed-train-riders>

7/29/14 Item #4

From: Alan & Angela Scott [mailto:a_scott1318@comcast.net]
Sent: Friday, July 25, 2014 10:45 AM
To: District2; Pinedo, Patricia; Barlow, Jean; District4; District5 (Office of Supervisor Debbie Pochigian)
Subject: Fwd: BOS letter re agenda July 29th HSR resolution

Supervisor's

Please accept my apologies as I have just performed an edit and discovered some minor errors that have been corrected. I would like this copy entered into the record please for July 29th Board meeting and my previous submission removed from the record.

With sincere appreciation for your understanding in this matter.

Regards

Alan Scott

From: "Scott, Alan" <a_scott1318@comcast.net>
To: district2@co.fresno.ca.us, ppinedo@co.fresno.ca.us, ibarlow@co.fresno.ca.us,
district4@co.fresno.ca.us, District5@co.fresno.ca.us
Sent: Friday, July 25, 2014 1:10:38 AM
Subject: BOS letter re agenda July 29th HSR resolution

Supervisor's

Attached is my letter supporting a NEGATIVE vote regarding your agenda resolution item specific to the current HSR project.

I am unable to actually sign the letter due computer capabilities; however, it is my expectation that you will still accept it in support of a no vote.

If this does not open please advise. The computer i am using is set for European usage and the support software may not be totally compatible to ours. With apologies if this occurs.

Thank you

Alan Scott

Email Submission - Revision

July 25, 2014

Supervisor Andreas Borgeas
Chairman
Supervisor Judith Case McNairy
Vice Chairman
Supervisor Henry Perea
Supervisor Phil Larson
Supervisor Debbie Poochigian
Fresno County Board of Supervisor's
2281 Tulare, Room #300
Fresno, CA 93721

Dear Chairman Borgeas, Vice Chairman Case, Supervisor Perea, Supervisor Larson & Supervisor Poochigian:

I am compelled to write you from Dublin, The Republic of Ireland regarding the High Speed Rail agenda item before your Board on July 29, 2014.

I am a Founding Member of Citizens for California High Speed Rail Accountability of Kings County and since May of 2011, I have been actively involved in the challenge of this horrendous politically misguided mega-a-project. I have provided both written and verbal comments at numerous HSR board meetings, Assemble and Senate hearings, Kings County Board of Supervisors meetings, City of Hanford council meetings, City of Bakersfield council meetings, Kern County Board of Supervisors meeting, City of Shafter city council meetings, HSR train talk sessions, many other HSR local public hearings; furthermore, I have read all too much information over these years regarding this machination that is incomplete, very misleading, and in a number of cases just plain false.

Even though I am currently in Ireland for our Son's wedding, I cannot in good consequence avoid the opportunity to provide proven reasons that will enable you to support a no vote regarding the HSR before you.

I would like to begin with the information outlined below:

1. March 27, 2014, at a Senate Transportation and Housing Informational hearing chaired by Senator Mark DeSaulnier provides absolutely some of the best testimony by highly recognized industry and academic leaders. More important, these individuals produced dramatic empirical evidence as to why this project is doomed even before it was introduced by Supervisor Poochigian recently.
2. The link for Senator DeSaulnier informational hearing background handout is: http://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/BackgroundPaper3-27-14_Final_amended.pdf
3. The link for entire hearing is: <http://senate.ca.gov/video-on-demand> viewing time is approximately 2.5 hours

Email Submission - Revision

4. To assist in reducing ones viewing time, the below videos are approximately 10 minutes in length:

Jeremy Fraysse, Legislative Analysis Office presenter. This is the link to his printed presentation:

<http://www.lao.ca.gov/handouts/transportation/2014/Funding-HSRA-032714.pdfLinks>

Lou Thompson, Chairman, HSR Peer Review Group:

<https://www.youtube.com/watch?v=hZKFTptL1Ls>;

Professor William Ibbs, UC Berkeley, Department of Civil Engineering:

<https://www.youtube.com/watch?v=pHvBZo8JW7Q>;

Paul Dyson, President, Rail Passenger Association of California:

<https://www.youtube.com/watch?v=mUvYGzdN5BQ>

The entirety of this superior data proves the project is in serious jeopardy. Mr. Morales' presentation is in the full length video link. However, I must comment that once again, his presentation lacked substance with no justification for continuance, etc. The viewers will hear very nice statements lacking massive amounts of solid substance. Moreover, he will ensure that you know they are doing well and in compliance.

These four experts have now provided you with solid evidence **to not support this project**. Again, this project is absolutely one major political embarrassment with serious questionable machinations from individuals who seem to have **no clue for the regard of their taxpayer fiduciary responsibilities whether from their elected, appointed or direct hire positions**.

The first question: is \$35 billion the correct cost - the answer is no!

Follow up question is \$68 B the correct number – the answer is no!

More perplexing, what is the correct number?

Now we are getting to the meat of the matter, as this is the most difficult question to answer because of the exacerbating obfuscations by the Authority, Board and selected elected individuals attempting to make this project appear to be solid and true to Proposition 1A a VOTER APPROVED LAW. Well it does not and below are more substantive facts proving the information presented by the Authority to date has serious deficiencies.

Professor William Ibbs, University of California, Department of Civil Engineering (see above for video link), noted that mega-a-projects typically have cost overrun factors of 2, 3 and 4.5 times the original pricing estimate. With this information, we can now achieve more accurate and realistic cost parameters that totally negate anything presented by those noted in the previous paragraph.

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Something else each Supervisor has to be very cognizant of - **taxpayer obligations**. It is critical that **your** primary decision must be made from the prospective of both the **California and potentially the United States of America taxpayers' who will be obligated to pay for this legacy only** obligation. *I might also add this debt obligation appears to an exponentially generational issue if not stopped. In other words, the broke state is going further in debt and I firmly believe a positive benefit can never be either reasonability or quantifiably achieved regardless how the powers to be manipulate the project.*

Whether this project is right or wrong is not the question. Therefore, it is critical that one begins with the expansion of Professor Ibbs cost overruns factors presented specific to mega-a-projects during his expert testimony.

I present the following for your consideration:

1. Using the Authorities current estimate of \$68 billion, twice this estimate the new cost is \$136 billion dollars (NOTE: one day after the May board meeting in Fresno, the authority discovered the cost estimate for the Fresno to Bakersfield alignment was off by \$1,000,000,000 that is "B" for billion dollars. That is a 15% cost increase ERROR. Furthermore, they had nearly 18 months to ensure their data would / should be accurate and it was not!!!);
2. Moving on to a factor of three times the current estimate the new cost would be \$204 billion dollars;
3. Finally, 4.5 times the current estimate the new cost would be \$306 billion dollars. Please remember, these are just his estimates but we do know that the new bay bridge overrun was 6.5 times the original cost. Using this factor the potential cost for this project could actually be \$448,000,000,000 (almost ½ trillion dollars). I for one would require a major or better yet an extremely powerful justification for the continuance of this project into an unknown finance quagmire of epic consequences from leadership that will not be around to be held accountable for their errors of fiduciary irresponsibility. Smoke and mirrors does not make a value added project, substance does every time.

Some other factors that clearly must be considered in these calculations, debt service, interest payments, penalty payments, change order payments, the list goes on...

Since this is a design build project with less than 30% of the design that might be known, thus leaving 70% for the bidders to provide accurate comprehensive bids. Not sure you would find this as a benchmark bidding process in the private sector? The one sure take away will be costs will rise again and again under this format. Furthermore, the Authority has zero checks and balances from outside qualified non-partisan firm(s). The Authority spends tons of time presenting their internal audit system but **they** did it and no one else is validating the who, what, where, why and when of how accurate or correct taxpayer monies are being spent.

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Remember, the Big Dig, it was confined to a very specific area in Boston. However, California's high speed rail project, depending on what is in play, covers either 800 miles or 400 miles across mountains, valleys, earthquake faults, ground that is subsiding, tunnelling in very questionable terrain and it is being bid at using only 15% to 30% of total project design known to the bidder, really!!!

Other factors not considered or properly addressed by the proponents:

1. The state is broke;
2. We have no dependable water storage capabilities;
3. The states number 1 industry – AGRICULTURE – it will take a significant hit. Of the top ten agricultural counties in the USA, eight are from California and approximately half will be affected by this legacy project. Does this make good business sense?;
4. State debt is at an all time high with the possible low number beginning \$350 billion to a possible high of \$1.1 trillion dollars in unfunded and funded liabilities and how much will this boondoggle add to that unacceptable and uncontrolled balance sheet?;
5. The project has the potential to create a serious medical emergency specific to Coccidioidomycosis (Valley Fever) and below are numbers of links discussing this very serious and potentially fatal disease;
<http://www.cdc.gov/fungal/diseases/coccidioidomycosis/index.html>
<http://www.cdph.ca.gov/programs/ohb/pages/cocci.aspx>
<http://www.cdph.ca.gov/programs/ohb/pages/cocci.aspx>
<http://azdhs.gov/phs/oids/epi/valley-fever/>
<https://www.vfce.arizona.edu/Default.aspx>
http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6315a1.htm?s_cid=mm6315a1_e
<http://www.cityoforange.org/civicax/filebank/blobdload.aspx?BlobID=13755>

Furthermore, does anyone know where the electricity to run this project is coming from? To date there is nothing in HSR plans to achieve electrification **(by the way, it takes at least 13 years to put a single power station on line)**.

Speeds, massive misguided calculations from start to finish! The first and the last 60 miles are in a 'blended' setting and in very heavy populated areas; therefore, 220 Mph is not possible for a total of 120 rail miles.

Additional information for consideration. HSR staff at their Palmdale presentation informed me the Palmdale to LA Union Station alignment section trains would be exiting the tunnel at Acton at 220 Mph and continuing at that speed through the Santa Clarita environment (note, this is the southern 'blended' area and I question the engineer getting the same answer) a second time. They also state the train will climb in mountainous areas at 220 Mph. I believe this comes under the category of 'whatever it takes to get the simulation to achieve the time

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distance equation created for PR usage only'. One final thought, take a good look at the current planned routing and one can immediately determine 220 Mph is not achievable for numbers of reasons, one being political alignment requirements, and the other being it is a circuitous routing rather than a straight alignment.

I have not taken the time to address ridership, or the 30% small business set-a-sides that are totally screwed up, or the numerous CEQA & NEPA issues (one being the **Preemption Ruling** resolved by the court against the Authority now reinforcing the requirement CEQA applies to the project), or the three previous legal actions court ruled in favor of the Kings County litigants, or the additional legal actions - I believe now totalling 14, or the numerous Environmental Justice issues especially in Corcoran, possibly in Wasco and Shafter, etc.

As you can note, the issues are vast, the mistakes are **theirs**, purchasing of lands, business and homes is becoming a major issue and I am sure it will be addressed at your meeting on the 29th.

The line up against this project is overwhelming and most troubling when leadership finds it necessary to avoid any and all empirical evidence that require only one decision – stop the project now before more money is rat holed into a “train to nowhere”.

A major issue not covered by any HSRA plan is terrorism and I will leave it at that.

Thank you for taking time to review my presentation and I close with confidence that the **correct taxpayer decision** will be achieved by this board.

Sincerely,

//S//

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(Note: This is the only communication method through August 7th.)