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January 21, 2014

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235308

**BY ELECTRONIC FILING**

The Honorable Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E. Street, S.W., Room 100  
Washington, DC 20423-0001

**ENTERED**  
**Office of Proceedings**  
**January 22, 2014**  
**Part of**  
**Public Record**

- Re: (i) California High-Speed Rail Authority Petition for Exemption of Fresno to Bakersfield HST Section (STB Finance Docket No. 35724 (Sub-No. 1))
- (ii) Failure of California High-Speed Rail Authority to Comply with STB December 20, 2013 regarding Service of Petition filed September 26, 2013
- (iii) Confirmation of Notice of Intent of Kings County Water District and Citizens for California High Speed Rail Accountability to Participate in California High Speed Rail Authority, STB Finance Docket No. 35724 (Sub-No.1)

Dear Ms. Brown:

This office represents Kings County Water District in the above matter. On December 20, 2013, the District submitted its notice of intent to appear and participate in the above matter, together with Citizens for High-Speed Rail Accountability.

The California High-Speed Rail Authority ("Authority") failed to comply with the Board's Order dated December 20, 2013. This failure is explained below. On account of this failure the Petition should be dismissed.

On December 20, 2013, the Board issued its decision in response to the Authority's Petition for Exemption filed September 26, 2013 (Second Petition). This Petition had been filed with no notice to any of the interested parties who had participated in the Petition filed March 19, 2013 (the First Petition), or of the hundreds if not thousands of property owners subject to takings and other destructive impacts by the train project. The names and mailing addresses of all of these parties and impacted property owners are known to the Authority based on publically available tax records and the proposed train alignments.

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Office of Proceedings  
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Paragraph 2 of the STB Decision dated December 20, 2013 ordered the Authority to:

. . . notify all parties of record in the main docket of this proceeding of the proposed transaction by January 3, 2014, and certify contemporaneously to the Board that it has done so. Emphasis added.

The Board's website generates a list of 85 "services list entries," of whom 61 entries have "Party of Record" to the left of the entry. The website generated service list is enclosed.

On January 6, 2014, this office received the following from Nossaman LLP, attorneys for the Authority:

1. Certificate of Service dated January 2, 2014 signed by Ms. Morgan--this certificate only included the names of 11 parties appearing in the sub-file proceeding on the Second Petition filed September 26, 2013 (see enclosed Certificate of Service Dated January 2, 2014);
2. Petition for Exemption dated March 27, 2013 with attachments including the FRA ROD for the California High-Speed Train Merced-Fresno Section; and
3. Cover letter of Mr. Sheys for above, dated March 27, 2013.

The Authority submitted and filed (docket entry no. #235255) the enclosed cover letter, also dated January 2, 2014, which stated:

In accordance with the Surface Transportation Board's decision on December 20, 2013, attached please find a document certifying that the California High-Speed Rail Authority has served on all parties of record in the main docket a copy of its Petition for Exemption and a copy of the Board's December 20, 2013 decision contemporaneously with transmission of this letter. Emphasis added.

The letter enclosed the certificate of service listed as no. 1 above. As explained above the service list on the Certificate of Service dated January 2, 2014 is the service list for the SECOND PETITION, NOT THE FIRST PETITION. The STB website service list for the Second Petition is also enclosed.

The January 2, 2014 mailing DID NOT include the Exemption Petition that was filed September 26, 2013, nor was it served on the full 85 service list entries or the 61 "parties of record in the main docket of this proceeding." The Authority failed to provide the notice ordered by the STB.

By letter dated January 19, 2014, the Authority's attorneys were notified of the Authority's failure to comply with the Board's December 20, 2014 Order. See enclosed letter to Linda J. Morgan dated January 19, 2014.

By letter to the Board dated January 13, 2014, Aaron Fukuda, Co-Chairman of Citizens for California High-Speed Rail Accountability ("CCHSRA"), notified the Board that the Authority had failed to comply with the Board's Order regarding service of the September 26, 2013 petition. The letter also addressed a number of other points such as the unwisdom of the February 14, 2014 deadline for responses to the Petition.

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Enclosed is a copy of the CCHSRA January 13, 2014 letter. The District joins in that letter.

In the proceedings of the First Petition (the one filed March 19, 2013), there were about 85 parties who filed letters/comments/etc. The Board's December 20th decision was that the Authority was to give notice to all of the "parties of record" appearing in the proceedings on the FIRST Petition, and to send them copies of the SECOND Petition. The Authority's attorneys got everything backwards. They sent copies of the FIRST Petition, and according to their Certificate of Service they sent it only to the 11 parties who appeared in the SECOND Petition -- totally opposite of what the STB ordered.

The February 14, 2014 deadline for opposition to the petition is arbitrary and capricious.

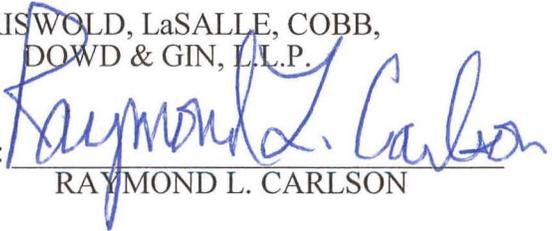
February 14, 2014 is also the date for hearing the Authority's motion for judgment on the pleadings in the Prop. 1A case pending in Sacramento County Superior Court, John Tos, et al. v. California High-Speed Rail Authority, et al., Case no. 34-2011-00113919. The District is an amicus in that case and will be appearing at that hearing. The Board's arbitrarily set February 14, 2014 deadline to submit responses and opposition to the Second Petition creates a "cram-down" effect on parties like the District that are participating in both proceedings.

The other further and additional reasons for the unwisdom of the February 14, 2014 deadline are well put in the CCHSRA January 13, 2014 letter, in which the District joins. Therefore, the Board should continue or re-set the deadline for responding to the Second Petition, for the reasons set out in the CCHSRA January 13, 2013 letter. Only the desire for a rush to judgment and limit opportunities for participation can support the February 14, 2014 date.

Very truly yours,

GRISWOLD, LaSALLE, COBB,  
DOWD & GIN, L.L.P.

By:

  
RAYMOND L. CARLSON

Enclosures

1. STB service list in Docket #: FD 35724 generated by STB website January 21, 2014
  2. Certificate of Service dated January 2, 2014 signed by Linda J. Morgan
  3. Letter dated January 2, 2014, to STB enclosing no. 1 above (docket no. 235255)
  4. STB service list in Docket #: FD 35724 sub-no. 1 generated by STB website January 21, 2014
  5. Letter dated January 19, 2014 to Linda J. Morgan
  6. Letter dated January 13, 2014 to STB from Aaron Fukuda, Co-Chair, CCHSRA
- cc: w/ encl.  
Dennis Mills  
California High-Speed Rail Authority c/o CEO Jeff Morales  
Federal Railroad Administration c/o Joe Szabo, Administrator

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Office of Proceedings  
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CERTIFICATE OF SERVICE  
STB Finance Docket No. 35724 (Sub-No. 1), California High-Speed Rail Authority  
Construction Exemption – In Fresno, Kings, Tulare and Kern Counties

I hereby certify that I have this day cause to be served by first class mail, postage prepaid, a copy of the foregoing letter dated January 21, 2014 to the Surface Transportation Board, in all parties of record in this sub-docket and in the main docket as listed below:

- Party Of Record: Boren, Tony  
Fresno Council Of Governments  
2035 Tulare St., Suite 201  
Fresno, CA 93721
- Party Of Record: Carlson, Colleen  
1400 W. Lacey Boulevard, Bldg. #4  
Hanford, CA 93230
- Party Of Record: Carlson, Raymond L. (Hand delivered)  
Griswold, Lasalle, Cobb, Dowd & Gin, L.L.P.  
111 E. Seventh Street  
Hanford, CA 93230
- Party Of Record: Descary, William C.  
604 Plover Court  
Bakersfield, CA 93309-1336
- Party Of Record: Eager, Lee Ann  
Economic Development Corporation  
906 N Street, Suite 120  
Fresno, CA 93721
- Party Of Record: Fukuda, Aaron  
7450 Mountain View Street  
Hanford, CA 93230
- Party Of Record: Heglund, Andrew  
City Of Bakersfield  
1600 Truxtun Avenue, 4Th Floor  
Bakersfield, CA 93301
- Party Of Record: Janz, James  
Community Coalition On High Speed Rail  
2995 Woodside Road  
Woodside, CA 94062
- Party Of Record: Lasalle, Michael E.  
13771 Excelsior Avenue

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January 21, 2014  
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Hanford, CA 93230

Party Of Record: Morgan, Linda J.  
Partner, Nossaman, L.L.P.  
1666 K Street, N.W., Suite 500  
Washington, DC 20006

Party Of Record: Perea, Henry R.  
Fresno Work  
2281 Tulare Street, Room 300  
Fresno, CA 93721

Party Of Record: Rudd, Bruce  
City Of Fresno, City Manager  
2600 Fresno Street  
Fresno, CA 93721-3601

Party Of Record: Swearengin, Mayor Ashley  
City Of Fresno  
2600 Fresno Street  
Fresno, CA 93721-3600

Party of Record: Begeman, Ann D.  
Vice Chairman  
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Party of Record: Bender, Carol  
13340 Smoke Creek Avenue  
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Party of Record: Bigelow, Frank  
State Capitol  
P. O. Box 942849  
Sacramento, CA 94249-0005

Party of Record: Birkey, Scott  
Preserve Our Heritage  
555 California Street, 10th Floor  
San Francisco, CA 94104

Party of Record: Boren, Tony  
Fresno Council Of Governments  
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Fresno, CA 93721

Party of Record: Boxer, Honorable Barbara

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Page 6

United States Senate  
Washington, DC 20510

Party of Record: Brown, Corrine  
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Washington, DC 20515

Party of Record: Brown, Morris  
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Party of Record: Brown, Jr., Governor Edmund G.  
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Party of Record: Durbin, Honorable Richard J  
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- Party of Record: Eager, Lee Ann  
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- Party of Record: Feinstein, Honorable Dianne  
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- Party of Record: Fukuda, Aaron  
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- Party of Record: Harkey, Diane L.  
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- Party of Record: Honda, Honorable Michael

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Congress Of The United States  
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Member of Congress: Denham, Honorable Jeff  
Subcommittee On Railroads, Pipelines, And Hazardous Materials Committee  
On Transportation and Infrastructure  
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Washington, DC 20515

Member of Congress: Hahn, Honorable Janice  
Congress Of The United States  
Washington, DC 20515

Member of Congress: Hunter, Honorable Duncan L.

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Executed this 21st day of January, 2014 at Hanford, CA.

  
KATIE ASKINS



# Surface Transportation Board

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Docket #: **FD\_35724\_0**

Case Title: **CALIFORNIA HIGH-SPEED RAIL AUTHORITY-CONSTRUCTION EXEMPTION-IN MERCED, MADERA AND FRESNO COUNTIES, CAL.**

**85 Service List entries found.**

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Party Of Record: Bigelow, Frank  
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Sacramento, CA 94249-0005

Party Of Record: Birkey, Scott  
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Party Of Record: Boren, Tony  
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United States Senate  
Washington, DC 20510

Party Of Record: Brown, Corrine  
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Party Of Record: Lautenberg, Frank R.  
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Party Of Record: Martin, Charles  
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Party Of Record: Massaro, Steve  
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Party Of Record: Rogers, David  
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Party Of Record: Schiff, Honorable Adam  
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1318 Whitmore Street  
Hanford, CA 93230

Party Of Record: Seals, Ronald V.  
Chowchilla Union High School District  
805 Humboldt Avenue  
Chowchilla, CA 93610

Party Of Record: Setty, Michael D.  
Train Riders Association Of California  
1025 Ninth Street, Suite 223  
Sacramento, CA 95814-3516

Party Of Record: Sheys, Kevin M.  
Nossaman Llp  
1666 K Street, N.W., Suite 500  
Washington, DC 20006

Party Of Record: Slaughter, Honorable Louise M

U. S. House Of Representatives  
Washington, DC 20515

Party Of Record: Swearengin, Mayor Ashley  
City Of Fresno  
2600 Freson Street  
Freson, CA 93721-3600

Party Of Record: Taylor, Jeff  
1624 Country Breeze Place  
Bakersfield, CA 93312

Party Of Record: Tonko, Honorable Paul  
U.S. House Of Representatives  
2463 Rayburn Hob  
Washington, D.C. 20515

Party Of Record: Upton, Kole  
Findley M. Upton Trust  
P. O. Box 506  
Chowchilla, CA 93610

Party Of Record: Vidak, Andy  
13775 Lacey Boulevard  
Hanford, CA 93230

Party Of Record: Wagner, Donald P.  
State Capitol  
P. O. Box 942849  
Sacramento, CA 94249-0068

Party Of Record: Walters, Carol  
13343 Grangeville Boulevard  
Hanford, CA 93230-9695

Party Of Record: Wolter, Pamela C.  
Acton And Agua Dulce  
3942 West Sierra Highway, Suite 5  
Acton, CA 93510

Party Of Record: Wytkind, Edward  
Transportation Trades Department, Afl-Cio  
815 16Th Street Nw, 4Th Floor  
Washington, DC 20006

Member Of Congress: Calvert, Honorable Ken  
Us House Of Representatives  
Washington, DC 20515

Member Of Congress: Campbell, Honorable John  
U.S. House Of Representatives  
2331 Rayburn Building  
Washington, DC 20515

Member Of Congress: Costa, Honorable Tim  
Congress Of The United States  
Washington, DC 20515

Member Of Congress: Denham, Honorable Jeff  
Subcommitte On Railroads, Pipelines, And Hazardous Materials Committee On Transportation And Infrastructure  
U.S. House Of Representatives  
Washington, DC 20515

Member Of Congress: Hahn, Honorable Janice  
Congress Of The United States  
Washington, DC 20515

Member Of Congress: Hunter, Honorable Duncan L.  
Us House Of Representatives  
Washington, DC 20515

Member Of Congress: Issa, Honorable Darrell  
U.S. House Of Representatives  
347 Rayburn House Office Building  
Washington, DC 20515

Member Of Congress: Lamalfa, Honorable Doug  
U.S. House Of Representatives  
506 Cannon House Office Building  
Washington, DC 20515

Member Of Congress: Lofgren, Honorable Zoe  
Us House Of Respresentative  
Washington, DC 20515

Member Of Congress: Mccarthy, Honorable Kevin  
Congress Of United States  
2421 Rayburn House Office Building  
Washington, DC 20515

Member Of Congress: Mckeon, Honorable Howard P. Buck  
Us House Of Representatives  
Washington, DC 20515

Member Of Congress: Nunes, Honorable Devin  
U.S. House Of Representatives  
Longworth House Office Building Suite 1013  
Washington, DC 20515

Member Of Congress: Rohrabacher, Honorable Dana  
Us House Of Representatives  
Washington, DC 20515

Member Of Congress: Royce, Honorable Edward R.  
U. S. House Of Representatives  
Washington, DC 20515

Member Of Congress: Valadao, Honorable David G.  
United States House Representatives  
1004 Longworth House Office Building  
Washington, DC 20515

Non-Party: Allen, Dewey And Karen  
529 Orange Avenue  
Corcoran, CA 93212

Non-Party: Derickson, Russ  
The Innovation Affinity Group Llc  
2020 W. 10Th Avenue #D-205  
Broomfield, CO 80020

Non-Party: Harvey, Cliff  
State Water Resources Control Board Division Of Water Quality  
Division Of Water Quality - 401 Unit - 15Th Floor 1001 I Street, Po Box 100  
Sacramento, CA 95814

Non-Party: Hook, Charlene & Richard  
316 5Th Avenue  
Corcoran, CA 93212

Non-Party: Lasalle, Michael E.  
13771 Excelsior Avenue  
Hanford, CA 93230

Non-Party: Maddalena, Dan  
Chowchilla Water District  
327 South Chowchilla Blvd.  
Chowchilla, CA 93610

Non-Party: Rodriguez, Darlene  
306 5Th Avenue  
Corcoran, CA 93212

Non-Party: Stout, Karen J.  
2250 9Th Avenue  
Laton, CA 93242-9620

Non-Party: Verboon, Doug  
Kings County Government Center  
1400 W. Lacey Boulevard  
Hanford, CA 93230

Surface Transportation Board, 395 E Street, SW, Washington, DC 20423

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**CERTIFICATE OF SERVICE**

**STB Finance Docket No. 35724 (Sub-No. 1), California High-Speed Rail Authority -  
Construction Exemption - In Fresno, Kings, Tulare, and Kern Counties**

I hereby certify that, in accordance with the Surface Transportation Board's December 20, 2013 decision in the above mentioned proceeding, I have this day caused to be served by first class mail, postage prepaid, a copy of the Petition for Exemption filed by the California High-Speed Rail Authority in this proceeding, as well as a copy of the Board's December 20, 2013 decision in this matter, to all parties of record in the main docket as listed below:

Boren, Tony  
Fresno Council of Governments  
2035 Tulare Street, Suite 201  
Fresno, CA 93721

Carlson, Colleen  
1400 W. Lacey Boulevard, Bldg. #4  
Hanford, CA 93230

Carlson, Raymond L.  
Griswold, Lasalle, Cobb, Dowd & Gin,  
L.L.P.  
111 E. Seventh Street  
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Descary, William C.  
604 Plover Court  
Bakersfield, CA 93309-1336

Eager, Lee Ann  
Economic Development Corporation  
906 N Street, Suite 120  
Fresno, CA 93721

Fukuda, Aaron  
7450 Mountain View Street  
Hanford, CA 93230

Janz, James  
Community Coalition on High Speed  
Rail  
2995 Woodside Road  
Woodside, CA 94062

Lasalle, Michael E.  
13771 Excelsior Avenue  
Hanford, CA 93230

Perea, Henry R.  
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2281 Tulare Street, Room 300  
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Rudd, Bruce  
City of Fresno, City Manager  
2600 Fresno Street  
Fresno, CA 93721

Swearengin, Mayor Ashley  
City of Fresno  
2600 Fresno Street  
Fresno, CA 93721

Dated this 2<sup>nd</sup> day of January, 2014.



Linda J. Morgan

Attorney for California High-Speed Rail Authority



**NOSSAMAN** LLP

235255

**VIA HAND DELIVERY**

January 2, 2014

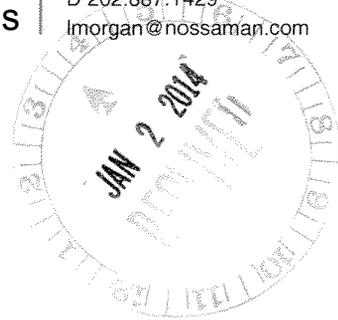
Ms. Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, SW  
Washington, DC 20423

ENTERED  
Office of Proceedings  
January 2, 2014  
Part of  
Public Record

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Linda J. Morgan  
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**Re: STB Finance Docket No. 35724 (Sub-No. 1), California High-Speed Rail Authority—Construction Exemption—In Fresno, Kings, Tulare and Kern Counties, California**

Dear Ms. Brown:

In accordance with the Surface Transportation Board's decision on December 20, 2013, attached please find a document certifying that the California High-Speed Rail Authority has served on all parties of record in the main docket a copy of its Petition for Exemption and a copy of the Board's December 20, 2013 decision contemporaneously with transmission of this letter.

Respectfully submitted,

Linda J. Morgan  
*Attorney for California High-Speed Rail Authority*

Enclosures

**CERTIFICATE OF SERVICE**

**STB Finance Docket No. 35724 (Sub-No. 1), California High-Speed Rail Authority -  
Construction Exemption - In Fresno, Kings, Tulare, and Kern Counties**

I hereby certify that, in accordance with the Surface Transportation Board's December 20, 2013 decision in the above mentioned proceeding, I have this day caused to be served by first class mail, postage prepaid, a copy of the Petition for Exemption filed by the California High-Speed Rail Authority in this proceeding, as well as a copy of the Board's December 20, 2013 decision in this matter, to all parties of record in the main docket as listed below:

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Hanford, CA 93230

Carlson, Raymond L.  
Griswold, Lasalle, Cobb, Dowd & Gin,  
L.L.P.  
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Descary, William C.  
604 Plover Court  
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Eager, Lee Ann  
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7450 Mountain View Street  
Hanford, CA 93230

Janz, James  
Community Coalition on High Speed  
Rail  
2995 Woodside Road  
Woodside, CA 94062

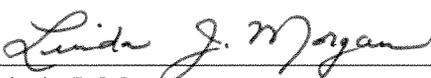
Lasalle, Michael E.  
13771 Excelsior Avenue  
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Perea, Henry R.  
Fresno Work  
2281 Tulare Street, Room 300  
Fresno, CA 93721

Rudd, Bruce  
City of Fresno, City Manager  
2600 Fresno Street  
Fresno, CA 93721

Swearengin, Mayor Ashley  
City of Fresno  
2600 Fresno Street  
Fresno, CA 93721

Dated this 2<sup>nd</sup> day of January, 2014.

  
\_\_\_\_\_  
Linda J. Morgan  
Attorney for California High-Speed Rail Authority



# Surface Transportation Board

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Docket #: **FD\_35724\_1**

Case Title: **CALIFORNIA HIGH-SPEED RAIL AUTHORITY-CONSTRUCTION EXEMPTION-IN FRESNO, KINGS, TULARE, AND KERN COUNTIES, CAL.**  
**13 Service List entries found.**

Party Of Record: Boren, Tony  
 Fresno Council Of Governments  
 2035 Tulare St., Suite 201  
 Fresno, CA 93721

Party Of Record: Carlson, Colleen  
 1400 W. Lacey Boulevard, Bldg. #4  
 Hanford, CA 93230

Party Of Record: Carlson, Raymond L.  
 Griswold, Lasalle, Cobb, Dowd & Gin, L.L.P.  
 111 E. Seventh Street  
 Hanford, CA 93230

Party Of Record: Descary, William C.  
 604 Plover Court  
 Bakersfield, CA 93309-1336

Party Of Record: Eager, Lee Ann  
 Economic Development Corporation  
 906 N Street, Suite 120  
 Fresno, CA 93721

Party Of Record: Fukuda, Aaron  
 7450 Mountain View Street  
 Hanford, CA 93230

Party Of Record: Heglund, Andrew  
 City Of Bakersfield  
 1600 Truxtun Avenue, 4Th Floor  
 Bakersfield, CA 93301

Party Of Record: Janz, James  
 Community Coalition On High Speed Rail  
 2995 Woodside Road  
 Woodside, CA 94062

Party Of Record: Lasalle, Michael E.  
 13771 Excelsior Avenue  
 Hanford, CA 93230

Party Of Record: Morgan, Linda J.  
 Partner, Nossaman, L.L.P.  
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 Washington, DC 20006

Party Of Record: Perea, Henry R.  
 Fresno Work  
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 Fresno, CA 93721

Party Of Record: Rudd, Bruce  
 City Of Fresno, City Manager  
 2600 Fresno Stree  
 Fresno, CA 93721-3601

Party Of Record: Swearengin, Mayor Ashley  
 City Of Fresno  
 2600 Freson Street  
 Freson, CA 93721-3600

Surface Transportation Board, 395 E Street, SW, Washington, DC 20423



Robert M. Dowd\*  
Robert W. Gin\*  
Randy L. Edwards  
Jim D. Lee  
Jeffrey L. Levinson\*  
Raymond L. Carlson  
Ty N. Mizote\*  
Michael R. Johnson\*  
Robin M. Hall  
Mario U. Zamora  
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G·L·C·D·G

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January 19, 2014

Lyman D. Griswold  
(1914-2000)

Michael E. LaSalle  
(Retired)

Steven W. Cobb  
(1947-1993)

\*a Professional Corporation

**By E-Mail [lmorgan@nossaman.com](mailto:lmorgan@nossaman.com) & U.S. Mail**

Linda J. Morgan  
NOSSAMAN LLP  
1666 K Street, NW, Ste 500  
Washington, DC 20006

Re: California High-Speed Rail Authority Petition for Exemption of Fresno to Bakersfield HST Section (STB Finance Docket No. 35724 (Sub-No. 1))

Dear Ms. Morgan:

This office represents Kings County Water District in the above matter. Paragraph 2 of the STB Decision dated December 20, 2013 required the California High-Speed Rail Authority ("Authority") to:

. . . notify all parties of record in the main docket of this proceeding of the proposed transaction by January 3, 2014, and certify contemporaneously to the Board that it has done so.

On January 6, 2014, this office received the following:

1. Certificate of Service dated January 2, 2014;
2. Petition for Exemption dated March 27, 2013 with attachments including the FRA ROD for the California High-Speed Train Merced-Fresno Section; and
3. Cover letter of Mr. Sheys for above, dated March 27, 2013.

Your January 2, 2014 mailing DID NOT include the Exemption Petition that was filed September 26, 2013 without any notice to any interested parties at that time. The Authority has still failed to provide the notice ordered by the STB.

Very truly yours,

GRISWOLD, LaSALLE, COBB,  
DOWD & GIN, L.L.P.

By: 

RAYMOND L. CARLSON

cc: Dennis Mills

C:\RLC\KCWD\STB Matter\Morgan 1 19 14 re service.wpd



January 13, 2014

Ms. Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E. Street, SW  
Washington, DC 20423-0001

Re: **STB Finance Docket No. 35724 (Sub-No. 1).**

California High-Speed Rail Authority's Petition for Exemption of Fresno to Bakersfield HST Section.

Dear Ms. Brown:

Citizens for California High-Speed Rail Accountability (CCHSRA) is a non-profit citizens organization. Our organization is composed of people living within Kings County, California, many of whom own land within the California High-Speed Rail Authority's (Authority) proposed alignments in the Fresno to Bakersfield section of its proposed project. CCHSRA respectfully submits this letter regarding the following matters and requests:

**The Authority Misunderstood its Notice Requirements.**

The Board's December 20, 2013 decision ordered the Authority to "notify all parties of record in the main docket of this proceeding of the proposed transaction by January 3, 2014, and certify contemporaneously to the Board that it has done so." Our organization was one of these parties of record. Yet, we just received from the Authority copies of the Petitions it filed with the Board on March 27, 2013 in Finance Docket No. 35724-0, rather than its new Petition that it filed with the Board on September 26, 2013 in Finance Docket No. 35724-1. Perhaps by mistake or misunderstanding, it appears that the Authority is not complying with the aforementioned notice requirement of the Board's decision.

**There Is No Need or Urgency to File Replies by February 14, 2014.**

In addition, the Board's December 20, 2013 decision extended the deadline for accepting replies to this Petition to February 14, 2014, from December 24, 2013. While we appreciate this extension, we see no justification for a February deadline. After the Authority filed its Petition for Exemption in this matter on September 26, 2013, the Authority stated on page 2 of its November 15, 2013 *Project Update Report to the California State Legislature* that "[t]he Authority Board of Directors will make a final decision about alignments and station locations

after issuance and consideration of the final [environmental] documents in Spring, 2014.”<sup>1</sup> Moreover, the Authority confirmed on page 14 (18 pdf) of the same document that the anticipated date for the FRA’s Record of Decision will be in the Spring of 2014. Hence, it will be a number of months before these final decisions and documents are finalized and adopted by the Authority and FRA.

In addition, the Authority’s *Staff Recommendation: Preferred Alternative – Fresno to Bakersfield Section*, dated November, 2013, declared on page 1-1:

“[T]he Authority staff will present their recommendation [of preferred alternatives] as an action item to the Authority at the November 7, 2013 Board meeting. ... Following the Board meeting, staff will complete the National Policy Act [NEPA]/Section 404/408 Clean Water Act (CWA) integration process with the U.S. Army Corps of Engineers (USACE) and the U.S. Environmental Protection Agency (EPA). With concurrence with these agencies that the Preferred Alternative is the Least Environmentally Damaging Practicable Alternative (LEDPA), staff will complete the Final EIR/EIS. At the conclusion of this environmental review process, the Authority Board will consider whether to certify the Final EIR/EIS and adopt necessary findings, and take action to approve the preferred north-south alignment alternative and station locations for this portion of the HST System; and it is further anticipated that the Federal Railroad Administration (FRA) will issue a Record of Decision (ROD) on the Final EIR/EIS, *followed by a decision by the Surface Transportation Board (STB).*”<sup>2</sup> (Emphasis ours)

The above demonstrates that the Authority’s staff knows and understands that a great deal must happen and be decided before the matter would be ripe for the Board to decide whether it should grant an exemption for the Authority’s Fresno to Bakersfield project section. The staff understands that it will be many months – likely far beyond February 14, 2014 - before we get to such a juncture.

What is the point of the Board compelling opponents to submit replies and analyses regarding the transportation effects of decisions that have not yet been made, and which will not be made for many months? What is the urgency? The imposition of any deadline prior to then would cause a needless waste of time and effort on the part of many parties, especially those whose parcels are located in the alignments that the Authority will eventually eliminate. Therefore, CCHSRA asks the Board to amend its decision by setting a deadline for replies that is some reasonable date after the Authority and FRA adopt their Final EIR/EIS, and after the final decisions regarding alignments and station locations are made.

---

<sup>1</sup> California High-Speed Rail Authority, *Project Update Report to the California State Legislature*, November 15, 2013, p. 7 (11 pdf), [http://www.hsr.ca.gov/docs/about/legislative\\_affairs/SB\\_1029\\_Project\\_Update\\_Rpt\\_11\\_2013.pdf](http://www.hsr.ca.gov/docs/about/legislative_affairs/SB_1029_Project_Update_Rpt_11_2013.pdf).

<sup>2</sup> Authority, *Staff Recommendation: Preferred Alternative, Fresno to Bakersfield Section*, November, 2013, p. 1-1 (13 pdf), [http://www.hsr.ca.gov/docs/brdmeetings/2013/brdmtg\\_Item2\\_Attach\\_Fres\\_Baker\\_Staff\\_Recommend\\_Prefer\\_Alternative.pdf](http://www.hsr.ca.gov/docs/brdmeetings/2013/brdmtg_Item2_Attach_Fres_Baker_Staff_Recommend_Prefer_Alternative.pdf).

## **Insufficient Notice Will Be Given.**

CCHSRA filed a comment letter with the Board on May 7, 2013 in opposition to the Authority's March 27, 2013 Petition for Exemption for its Merced to Fresno section (FD 35724-0) as well as to the entire Merced to Bakersfield segment. A large number of other parties, including landowners affected by the project, expressed the same interest in the Authority's project by submitting replies to the Authority's Merced to Fresno Petition. However, our committee never received notice from the Authority or the Board of the filing of the Authority's most recent Petition.

The Authority never posted on its meeting agendas that it was considering filing this recent Petition for Exemption. Our organization monitors the Authority's agendas, and our members attend all of its Board meetings, but we never saw or heard that the Authority intended to take this action. Indeed, we find nothing in its agendas or minutes suggesting that any action was taken by the Authority's Board to authorize the filing of this Petition for Exemption.

We are gratified that the Board agreed in its December 20, 2013 decision that "the Authority must notify all parties of record in the main docket of this proceeding of the proposed transaction by January 3, 2014, and certify contemporaneously to the Board that it has done so." Some of our members who filed replies in the Authority's March 27, 2013 Petition have just received notice from the Authority's attorneys, but said attorneys must have misunderstood the Board's decision, and sent them the Petitions that the Board filed on March 27, 2013 rather than the Petition the Authority filed on September 26, 2013. This needs to be corrected.

More importantly, however, the Board also decided that publication of its December 20 decision in the *Federal Register* would be the only other notice that would be given of these proceedings and of the deadline for filing replies.

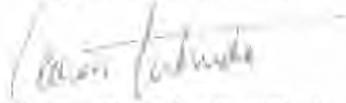
The U. S. Supreme Court case of *Mullane v. Central Hanover Bank and Trust Company*, 339 U.S. 306, 314 (1950), holds that the 14<sup>th</sup> Amendment of the United States Constitution requires that all persons are entitled to receive notice that is "reasonably calculated" to inform them of proceedings that will affect them.

In recent years, the Authority has sent letters for various reasons to each and every landowner who owns parcels affected by the proposed Fresno to Bakersfield alignments. Thus, the Authority possesses the mailing addresses of all persons whose land may be affected by its Project. We do not believe these persons ordinarily read the *Federal Register*, so we fail to see how publication in the *Register* would meet the constitutional standard of "notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency to present their objections." Upon applying these fundamental principles of due process to these specific circumstances, it leads one to the inescapable conclusion that the Board must further amend its decision by requiring the Authority to mail notice of these proceedings and of said deadline to *all* landowners in its proposed Fresno to Bakersfield alignments.

**Intent to Participate.**

Although CCHSRA has already done so, it again confirms that it intends to participate in the above-reference proceeding as a party of record, and requests copies of subsequent related pleadings, replies and decisions.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Aaron Fukuda".

Aaron Fukuda, Co-Chair of CCHSRA.

**CERTIFICATE OF SERVICE**  
**STB Finance Docket No. 35724 (Sub-No. 1),**  
**California High-Speed Rail Authority -**

I hereby certify that on this 13<sup>th</sup> day of January, 2014, I have served a copy of this comment by first class mail, postage prepaid, addressed to the following:

Boren, Tony  
Fresno Council of Governments  
2035 Tulare Street, Suite 201  
Fresno, CA 93721

Carlson, Colleen  
County Counsel, Kings County  
1400 W. Lacey Boulevard, Bldg. #4  
Hanford, CA 93230

Carlson, Raymond L.  
Griswold, Lasalle, Cobb, Dowd & Gin,  
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City of Fresno  
2600 Fresno Street  
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Washington, DC 20006

Thomas Fellenz  
California High-Speed Rail Authority  
770 L Street, Suite 800  
Sacramento, CA 9814

City of Bakersfield  
1600 Truxton Ave.  
Bakersfield, CA 93301

Executed on this 13<sup>th</sup> day of January, 2014 at Hanford, CA.

Aaron Fukuda, Co-Chair of CCHSRA