

Aaron Fukuda

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

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Public Record

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

Dear Ms. Brown,

My name is Aaron Fukuda and I am a resident of Kings County, California. I have been observing and participating in the California High Speed Rail Project (HSR Project) process for approximately 3 years. My initial interest in this project was one of observation, which then led to notification by the California High Speed Rail Authority (Authority) that my property was nearby the proposed high-speed rail project. I later discovered that agents of the Authority (all of which are no longer with the project) misled me in my initial contact with them and I discovered the project was through my property, not adjacent to my property. Approximately 6 months after this discovery and many long nights trying to obtain information, I discovered what many in California have come to understand about the California High Speed Rail Project, it is amalgam of poorly negotiated political decisions, poor project management and a clearly misguided use of critical state and federal funding all of which is sold as a high-speed train, but is essentially a conventional rail line for approximately 130 miles in the Central Valley of California (not connecting any major population centers).

I strongly encourage the Surface Transportation Board (STB) to deny the exemption of the California High Speed Rail Project (HSR Project) from a thorough review under U.S.C. Section 10901, as the review will illuminate to the STB, the nation and California the faulty assumptions and objectives that underlie the HSR Project. It is also strongly encouraged that the STB begin an immediate review of this project beginning with fact-finding hearings in California.

The reasons for denying the exemption include, and will be detailed in this letter:

- The HSR Project being described and the documents submitted and the HSR Project being built are not properly represented, therefore diminishing the convenience and necessity clauses that justify a railroad project.
- The lack of an operating plan and an operating partner fails to clearly define what service and/or need this project has for the traveling public.
- The involvement of Amtrak service is improperly identified and presents further concerns that the STB should investigate.

- Significantly flawed environmental documents (Environmental Impact Report / Environmental Impact Statement), which are currently in draft form.
- The HSR Project is not limited in scope and has far reaching impacts into other transportation services, roadway project, airline services, national transportation policy and funding and environmental impacts.
- The HSR Project also has a deliberate and direct impact on the market power of passenger rail service by its involvement of Amtrak, Caltrain and other rail services in California.

Project Description

The petition submitted by the Authority provides a description of an 800 mile high-speed rail system connecting most of the major cities in California. However, several pieces of information are missing including the largest detail, the funding and execution plan needed to carry out this project. The petition assumes that the entire 800 mile system is achievable yet fails to acknowledge the funding shortfalls, which include:

- Only having approximately 10% of the funds necessary for Phase 1 (connecting Merced to the San Fernando Valley);
- 0% of the funds for Phase 2;
- No private funding sources (this has only been recently acknowledged by the Authority as they spent years telling the public and California legislators that they were meeting with private investors and the money was forthcoming);
- Legal challenges to the existing Proposition 1A funds which represent the only state funds available, which includes two negative court rulings concerning the issuance of bonds; and
- Federal commitments from legislators to eliminate and/or limit the federal funds available for the largest infrastructure project in the nation.

The lack of a realistic funding discussion within the petition for exemption would lead the STB to believe that they are exempting a high-speed rail project, however what they would be exempting is a set of conventional tracks from Avenue 17 in Madera County to an un-determined location just north of Kern County. This track will not be electrified, nor carry high-speed trainsets and the Authority has no operating plan or operator secured to use the line being considered.

Therefore it is essential to provide a complete and exhaustive review of the HSR Project to ensure that the project being proposed is both financially and operationally viable. Otherwise, the STB will grant an exemption to a misrepresented high-speed rail project that will conclude in a stranded and/or duplicative (Amtrak) rail system.

Lack of Operating Plan

On Page 4, Footnote 8 the Authority acknowledges that they are not seeking operating authority over the Fresno to Bakersfield HST Section or the Merced to Fresno Section as they have yet to obtain an operating plan nor an operator to oversee the high-speed train system. This begs the questions, how can the Authority claim to build a high-speed rail system if there is no operational plan to operate it as a high-speed rail line?

The Authority was given a presentation in October 2010 by SNCF, which is the French high-speed rail development company. The SNCF presentation is included as Attachment A for reference and review by the STB. SNCF addressed the significant flaws in the proposed HSR Project, which was the insistence of the Authority to build the initial section of high-speed rail line (the segment seeking exemption under this petition) without private investment and without the involvement of an experienced high-speed rail operator. In the presentation SNCF recommended entering into a Pre-Development Agreement to competitively secure an operator to help plan and design the high-speed rail system in the early stages. Once the alignment had been selected the Authority could then proceed with a full request for design-build contracts, which is what is taking place today, however the plan being executed today fails to have high-speed rail experience at its foundation.

An example of potential issues with not including an operator or having an operational plan was discovered in Project Management Oversight (PMO) progress reports that were discovered via a Public Records Act request. In these reports, which were prepared by T.Y. Lin numerous issues were made publically available through the request for the information, as this information is not readily available nor posted in any public manner.

In PMO Report #39 on Page 11 (included as Attachment B) the Project Management Team (PMT) informed the Regional Consultant (RC) (which is URS in the Fresno-Bakersfield area) that design criteria in Technical Memorandum 2.1.2 was being revised to increase the distance between the end of a horizontal curve and the beginning of a vertical curve because “Segment lengths and attenuation time have a direct impact on rider comfort, a fundamental system consideration.” The impacts of not providing enough length between transitions would increase what could be considered a “roller-coaster effect” on the riders of the train. Increasing the lengths of times between transitions would mean adjustments in the alignment. Adjustments in the alignments could introduce new impacts, change existing impacts and require different and new mitigation measures. (PMO Progress Report #41, p. 8.) Whereas, failure to make any adjustments could impact the service level and/or present a significant safety risk to the high speed train system with a likely outcome of slower trains and failure to meet travel time requirements.

As the United States and California lack experience in the planning and construction of a high-speed rail system, the inclusion and involvement of an experienced high-speed rail operator would be paramount in ensuring that a technically feasible and financially feasible system is constructed. Exemption, per the requested petition set forth by the Authority will allow the project to move forward in the same misguided fashion and fail to have the necessary experience and safety concerns required for such a monumental project.

Problematic Amtrak Usage

The petition, on Page 8 indicates that the Authority plans to move the San Joaquin Amtrak service to the newly constructed line to establish "independent utility". This is problematic for several reasons, one of which is the Authority has no jurisdiction over the Amtrak Service in California. This is further complicated by recent changes in Amtrak operations, whereby

California legislation (AB 1779) now places the oversight and control of the San Joaquin Amtrak service under the purview of the San Joaquin Joint Powers Authority (JPA), which is comprised of many California Central Valley county representatives. Under the current plan the JPA has all of authority over Amtrak, and to date has not indicated any plans to comport with what the Authority has reported in this petition. This therefore removes the "independent utility" capabilities of the project, leaving the Authority with a approximately 130 miles of unused conventional rail tracks in the Central Valley.

The Authority also fails to address its ability to make any track installed readily available for Amtrak service including all of the traction control, signaling and other appurtenances required to run the Amtrak Service. This lack of planning is evident in the environmental documents provided by the Authority as they do not analyze nor mention running conventional diesel trains on the newly installed tracks.

The use of Amtrak is also incorrectly represented in the petition in that it is described as having the ability to travel from Merced to Bakersfield. At this moment the Authority only has funding to complete a conventional track from Avenue 17 in Madera, California to somewhere just north of the Kern County line. The Authority lacks funding and environmental clearances to travel north to Merced (there are several miles of track which lack environmental clearance in the Chowchilla, California area), and they lack funding to completely install conventional tracks into Bakersfield, California.

Environmental Issues

The list of environmental concerns and issues that the Authority has ignored in preparing its Draft Environmental Impact Report / Environmental Impact Statement leave a significant probability of a net environmentally damaging impact to the our Central Valley communities rather than an environmentally beneficial project as touted by the Authority. The issues and concerns with the HSR Project alignment from Fresno to Bakersfield have been well documented and submitted to the Authority. Due to the immense number of comments and concerns and given the intent of the STB to rely upon the existing Draft EIR/EIS documents, I respectfully submit the following documents into your record for a full review and analysis:

- Attachment 1 - Environmental comment letter submitted by Chatten-Brown & Carstens on behalf of the Citizens for California High Speed Rail Accountability (CCHSRA) in October 2013.
- Attachment 2 - Environmental comment letter submitted by Chatten-Brown & Carstens on behalf of the Citizens for California High Speed Rail Accountability (CCHSRA) in November 2013.
- Attachment 3 - Comments submitted by Gary Patton on behalf of CCHSRA pertaining to the public comment period of the Draft Revised EIR/EIS for the Fresno to Bakersfield section.
- Attachment 4 - Comments pertaining to Environmental Justice issues in the Draft Revised EIR/EIS for the Fresno to Bakersfield section submitted by Solution Strategies International and Ybarra Company on behalf of CCHSRA.

- Attachment 5 - Comments pertaining to air quality deficiencies in the Draft Revised EIR/EIS for the Fresno to Bakersfield section submitted by Blue Sky Consulting Group on behalf of CCHSRA.
- Attachment 6 - Comments pertaining to CEQA and Engineering deficiencies in the Draft Revised EIR/EIS for the Fresno to Bakersfield section submitted by Provost and Pritchard Engineering on behalf of CCHSRA.
- Attachment 7 - Comments pertaining to wildlife and biological deficiencies in the Draft Revised EIR/EIS for the Fresno to Bakersfield section submitted by Land Protection Partners on behalf of CCHSRA.
- Attachment 8 - Comments submitted by Kings County regarding many issues in the Draft Revised EIR/EIS for the Fresno to Bakersfield section.
- Attachment 9 - Comments submitted by the Environmental Protection Agency regarding many issues in the Draft Revised EIR/EIS for the Fresno to Bakersfield section.
- Attachment 10 - Comments submitted by the California Farm Bureau Federation regarding many issues in the Draft Revised EIR/EIS for the Fresno to Bakersfield section.
- Attachment 11 - Comments submitted by the City of Bakersfield regarding many issues in the Draft Revised EIR/EIS for the Fresno to Bakersfield section.
- Attachment 12 - Comments submitted by the Commons', which is a development in Bakersfield, regarding many issues in the Draft Revised EIR/EIS for the Fresno to Bakersfield section.
- Attachment 13 - Comments submitted by various landowners in Kings County regarding many issues in the Draft Revised EIR/EIS for the Fresno to Bakersfield section.

The attachments included above are submitted electronically with this letter to reduce the amount of paper needed to convey the information.

From the included information, which is only a small sampling of concerns regarding the Revised Draft EIR/EIS for the Fresno to Bakersfield section of the HSR Project, the STB can see that an exemption of the project from oversight has the potential to inflict a significant amount of environmental damage on communities and environments located in the path of the project.

Market Influence

The Authority maintains that an exemption applies to those projects that do not impact the market power of shippers, and there is a simple statement that the HSR Project does not provide any impacts to shipping markets. This statement and the reasons for the statement are not only missing, but this simple "trust us" motive has guided this project to its current failure to accomplish dictated goals.

The provision of Section 10502 refer to shippers, and fails to include a definition of "shippers." In the context of the largest impacts to the California transportation market, passenger rail service can be viewed as a shipping practice within California. In this fashion the HSR Project, at this time without an operator or operating plan, cannot be assessed to not impact other local, state and/or nation passenger rail or passenger transportation services.

Several examples of market dominance could be experienced by what is currently being planned. When the project implements the "blended approach" in the Caltrain and Metrolink systems, the

HSR Project will run high-speed rail car concurrently with low-speed trains and freight rail. In order to high-speed rail system to be successful they must run unobstructed and have priority over the entire length of track. Therefore the other local and low-speed passenger rail systems will take a secondary priority and therefore their level of service will be impacted, including market competition and pricing.

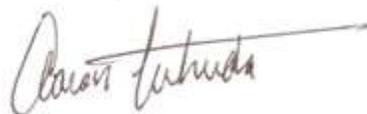
On a much larger picture the development of the HSR Project will involve the reliance upon a significant amount of State and Federal funds to simply get the infrastructure build for the system. As the Authority pushes for more funds, other local or state systems will see a decrease in funding to support those systems. This will add an increased market pressure and may cause ticket prices and or other services to increase.

Conclusion

As outlined it is hard to believe that issuing an exemption for the HSR Project as the Authority rushes toward construction will yield a beneficial and/or usable high-speed rail system. I urge the STB to deny the petition for exemption submitted by the Authority and immediately begin an open and thorough examination of the project before authorizing construction. I believe that this process will help the STB identify areas where the Authority can improve and address before moving forward.

I would also like to reserve the right to submit comments in the future as the Authority has not adopted its Final EIR/EIS and the HSR Project is undergoing a revision to its Business Plan. In both of these processes the Authority is continually changing the parameters of the project, therefore what is proposed today will be different tomorrow.

Sincerely,

A handwritten signature in cursive script that reads "Aaron Fukuda". The signature is written in dark ink and is positioned above the printed name.

Aaron Fukuda

Enclosures:
Attachments and Environmental Comments

cc:
Service List