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ENTERED  
Office of Proceedings  
March 10, 2014  
Part of  
Public Record

March 7, 2014

Via E-Filing

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

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

Dear Ms. Brown:

On behalf of the City of Bakersfield, I write to oppose the Petition for Exemption ("Petition") filed by the California High-Speed Rail Authority ("Authority") for the Fresno to Bakersfield HST section ("Project"). For the reasons stated below, **the Surface Transportation Board ("Board") should deny the Authority's Petition and require the Authority to apply for Board approval of the Project as required by 49 U.S.C. Section 10901.**<sup>1</sup>

In the case of the Project, an exemption from the requirements of Section 10901 is only appropriate if the formal application process is not necessary to allow the Board to fully analyze whether the Project appropriately carries out the rail transportation policy of Section 10101 ("RTP").<sup>2</sup> Here, there are significant questions as to whether the RTP is being facilitated by the Project. By way of illustration, the Project fails to satisfy the RTP in the following ways:

1. **The Project will not operate without detriment to the public health and safety. (RTP No. (8).)** For example, as in Kern County, where Bakersfield is located, the Project is destructive in Kings County, primarily a rural agricultural county between Fresno and Bakersfield. The alignment runs

<sup>1</sup> References to code sections in this letter refer to 49 U.S.C. unless otherwise indicated.

<sup>2</sup> Section 10502(a).

the length of Kings County essentially dividing it.<sup>3</sup> It divides long-standing family farms rendering them useless by making them inefficient and costly to operate. It destroys investments in water wells, weirs, and irrigation systems. While the Authority proposes mitigation to address these impacts, the mitigation falls short of truly addressing the impacts, especially those impacts related to noise and vibration.

2. **The Project is neither financially efficient nor economical. (RTP No. (1), (3), (4), (5), (6), and (9).)** To date, the Authority has limited funds to construct what the Authority claims to be approximately 130 miles, but may be as few as 87 miles,<sup>4</sup> of the 300 miles of track in the initial operating segment (IOS). If the Project ever is constructed, it will likely be nothing more than a track-laying project running from about 24 miles north of Fresno near Madera to Shafter or Wasco just north of Bakersfield, depending on how far the money goes. There is no budget for electrification and high-speed trains.
3. **The Project will likely not encourage or promote energy conservation. (RTP No. (14).)** Without certainty that the track will ever be electrified and used by high-speed trains, a claim that the Project satisfies the RTP in Section 10101(14) cannot be sustained since it is unlikely that there will, in fact, be a "diversion of automobile traffic to the *new electrified rail line*," (emphasis added) thereby promoting energy conservation.
4. **The Project does not encourage honest and efficient management of railroads. (RTP No. (9).)** In order to meet the "operating segment" requirement of Proposition 1A and the "independent utility" requirement of the Federal Railroad Administration, the Authority claims in its Petition that "[t]his first construction portion, including the Fresno to Bakersfield HST Section, will be available for immediate use for improved and faster service on Amtrak's San Joaquin intercity passenger rail line prior to initiation of HST service on the line in 2022,...."<sup>5</sup> However, without additional funding, estimated to be over \$30 billion, to complete the IOS, the Authority is being presumptive, at best, in saying that high-speed train service will be available by 2022. If the Project is constructed, it is likely that nothing more than an additional track for Amtrak will be available

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<sup>3</sup> The proposed alignment through Kings County fails to follow a transportation corridor as required by Proposition 1A.

<sup>4</sup> William Grindley and William Warren, "How Realistic Are the CHSRA's Plans To Build From Madera To Bakersfield? - A Briefing Paper -", 30 May 2013, page 5 (<http://www.cc-hsr.org>, Financial Reports).

<sup>5</sup> California High-Speed Rail Authority – Construction Exemption – In Fresno, Kings, Tulare, and Kern Counties, California, Petition for Exemption, 26 September 2013, page 8.

between Fresno and Bakersfield. That same result could be achieved more efficiently and economically, and with much less destruction, by double tracking *existing right-of-way* and upgrading signaling to avoid freight train delays and grade separations.

5. **The Project, as proposed, does not lay the foundation for the necessary economical components to attract capital. (RTP No. (6).)** Contrary to the Authority's claims, there is no indication that there is any interest in private or public capitalization of the Project beyond the limited funds currently slated for use. There is also little probability that the Project, or the entire high-speed rail system, if ever constructed, will provide revenues that will exceed the amount necessary to maintain the rail system and attract capital. The reality is that Congress is taking a serious look at reallocating the \$3 billion appropriation and the movement toward reconsideration by California voters of the use of the bond proceeds for high-speed rail is gaining traction.<sup>6</sup>

For these reasons, the City of Bakersfield requests that the Board deny the Petition and require that the Authority apply for the certificate. A denial will provide the Board with the opportunity to fully vet the Project to determine whether it meets the transportation goals of Section 10101.

Very truly yours,



ANDREW HEGLUND  
Deputy City Attorney

AH:lsc

cc: Congressman Kevin McCarthy, 23rd District, CA  
Honorable Mayor and City Councilmembers  
Alan Tandy, City Manager

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<sup>6</sup> In September 2013, a USC/*Los Angeles Times* poll revealed that 70% of voters want another opportunity to vote on California's high-speed rail. The impetus for the re-vote is that the high-speed rail project currently planned is so different from the project outlined in the 2008 Voter Information Guide that voters relied on in narrowly approving (52.62%) the issuance of bonds to partially finance the project. (USC Dornsife College of Letters, Arts and Sciences/*Los Angeles Times* poll, reported by Alexander Mar, *Daily Trojan*, 30 September 2013, Featured News.)

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Surface Transportation Board  
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I HEREBY CERTIFY that the foregoing letter was sent via e-mail for e-filing with the Surface transportation Board on March 7, 2014, and that a true and correct copy of the letter will be served via mail on March 10, 2014 on all interested parties.



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ANDREW HEGLUND

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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FINANCE DOCKET NO. 35724 (Sub. No. 1)

CALIFORNIA HIGH-SPEED RAIL AUTHORITY  
PETITION FOR EXEMPTION --  
FRESNO TO BAKERSFIELD HST SECTION

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CERTIFICATE OF SERVICE:  
OPPOSITION TO PETITION FOR EXEMPTION

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*Attorneys for CITY OF BAKERSFIELD*

I HEREBY CERTIFY that on March 10, 2014, I served by U.S. Mail one copy of the attached **Opposition Letter to California High-Speed Rail Authority's Petition for Exemption – Fresno to Bakersfield HST Section** on each of the following parties of record in this proceeding.

A handwritten signature in cursive script that reads "Linda Cohen". The signature is written in black ink and is positioned above a horizontal line.

---

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