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April 12, 2013

Cynthia T. Brown, Chief
Section of Administration
Surface Transportation Board
395 E Street, S.W., Room 100
Washington, D.C. 20024

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ENTERED
Office of Proceedings
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Part of
Public Record

RE: Finance Docket No. 35724, California High-Speed Rail Authority - Construction
Exemption - in Merced, Madera and Fresno Counties, California

1. PETITION FOR EXEMPTION
2. MOTION TO DISMISS PETITION FOR EXEMPTION OF CALIFORNIA HIGH-SPEED RAIL AUTHORITY

Dear Ms. Brown:

I write to oppose the Petition for Exemption ("Petition") filed by the California High-Speed Rail Authority ("Authority"). For the reasons stated below, **the Surface Transportation Board ("Board") should deny the Authority's Petition and require the Authority to apply for a Certificate from the Board as required by 49 U.S.C. Section 10901.**¹

Section 10901 requires a party, who intends to construct an "additional railroad line" and/or provide transportation by means of it, to secure a certificate authorizing that action unless the Board finds that such activities are inconsistent with the public convenience and necessity. But the Board may exempt that party from complying with the requirements of Section 10901 if the Section 10901 application:

1. Is not necessary to carry out the transportation policy of Section 10101; and
2. Either the transaction or service is of limited scope or the application is not needed to protect shippers from the abuse of market power.

Since the application is not needed to protect shippers from the abuse of market power, the Board may exempt the Authority from applying for certification if the application is not necessary to carry out the transportation policy of Section 10101. Section 10101 outlines fifteen key components of the federal government's transportation policy. Without demonstrating how the Authority's high speed rail project² ("Project") will

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

² Initially, the Authority intends to construct "*an additional railroad line*" through approximately 130 miles of irreplaceable farmland in the Central Valley during the next five years according to the Authority's November 3, 2011 Funding Plan. This 130-mile section was originally called the Initial Construction Section ("ICS"). In its Draft Revised 2012 Business Plan, April 2, 2012, the Authority lengthened the

provide passenger train service that is more convenient, more competitive, and relatively more affordable than Amtrak service and other modes of travel and demonstrating how the Project will provide revenue to sustain its operations and attract capital,³ the Authority does not satisfy several components of this transportation policy:

1. It does not “allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail.”⁴
2. It fails to “ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes, to meet the needs of the public and the national defense.”⁵
3. It fails to “foster sound economic conditions in transportation and to ensure effective competition and coordination between rail carriers and other modes.”⁶
4. It fails “to maintain reasonable rates where there is an absence of effective competition and where rail rates provide revenue which exceeds the amount necessary to maintain the rail system and to attract capital.”⁷
5. It fails “to encourage honest and efficient management of railroads.”⁸

In its Petition, the Authority discounts the significance of Section 10901 and emphatically states that “the very act of requiring [certification by the Board] by means other than an exemption – with the potential expense and risk of unjustified delay associated with such a process – would itself undermine the policy goals of § 10101.” But it is those “policy goals” that the Board is obligated to protect. And when the Authority requests that the Board abdicate its responsibility to ensure that the Project satisfies the transportation goals of Section 10101 and that the citizens of California are provided with a reliable, efficient, and financially sound high-speed rail system designed to complement California’s transportation needs, the Board must deny that Petition and conduct a more detailed evaluation of the Project.

section of track to be initially constructed to the San Fernando Valley, or about 300 miles, and called it the Initial Operating Section (“IOS”).

³ It will take \$25 to \$40 billion more to complete the IOS than was originally anticipated to complete the ICS, depending on the alignment selected. There are also no prospects for obtaining additional funding given federal spending curbs, state budget deficits, and the private sector’s reluctance to participate without guarantees. The Authority has no funding to purchase and operate electric high-speed train sets over the 130-mile line nor does it have funding for the electrification, signaling, and controls necessary for a high-speed train system. Even if the 130 miles of track are laid, there will still not be high-speed rail.

⁴ Section 10101(1).

⁵ Section 10101(4).

⁶ Section 10101(5).

⁷ Section 10101(6).

⁸ Section 10101(9).

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The Board should also consider that a significant amount of federal funds (\$3 billion ARRA/FRA) have been pledged to the Project, and the Board is obligated to ensure that those funds are utilized in a way that strengthens California's transportation plan in accordance with Section 10101.

There are genuine concerns that the Authority will not be able to secure sufficient investors to purchase the California Prop 1A bonds, which are needed to construct the Project and match funds required by the federal ARRA/FRA grant, or secure the necessary funding/investment to complete the Project. The Board must deny the Authority's Petition and require that the Authority apply for the certificate, providing the Board with the opportunity to fully vet the Project to determine whether it meets the transportation goals of Section 10101.

Sincerely,



Jeff Taylor
1624 Country Breeze Place
Bakersfield, CA 93312