

# DOUG VERBOON

Supervisor  
District 3



## BOARD OF SUPERVISORS

Kings County Government Center  
1400 W. Lacey Boulevard  
Hanford, California 93230  
Phone (559) 582-3211 - Ext. 2366  
Fax (559) 585-8047

March 5, 2013

233995  
FD 35724

The Honorable Daniel R. Elliott, III, Chairman  
The Honorable Ann D. Begeman, Vice Chairwoman  
The Honorable Francis P. Mulvey, Commissioner  
Federal Department of Transportation, Surface Transportation Board  
395 E. Street, SW  
Washington, DC 20423

ENTERED  
Office of Proceedings  
March 27, 2013  
Part of  
Public Record

Re: California High Speed Rail Project - **REQUEST FOR NOTICE OF PETITION  
TO BUILD A HIGH SPEED RAIL SYSTEM**

Honorable Board Members:

By this correspondence, the Kings County Board of Supervisors respectfully seeks a copy of any petition filed with your Board by the California High Speed Rail Authority ("Authority") to build a high speed train system ("Project") in California. Alternatively, Kings County requests notice of any such future Petition submitted by the Authority to your board so that it may file a responsive document.

The Kings County Board of Supervisors represents a constituency of 153,000 in Kings County situated in the center of the State of California. Approximately twenty-five percent of the 114 mile segment the Authority has designated as the "spine" of its Project is designed to dissect important farm land, most of which is statutorily protected through State preservation contracts and classified by USDA as important or prime agricultural land.

Even so, the Authority has consistently omitted Kings County from its planning processes and notices. When Kings County became aware of the Authority's intent to dissect Kings County rather than situate the alignment near an airport, existing transportation corridor, and interchanging highways twenty miles east, the County of Kings asserted its right to coordinate under the National Environmental Protection Act and other federal laws and regulations. Kings County's first request was made in March, 2010, well before the Project environmental document was released. Kings County has consistently and tirelessly attempted to coordinate ever since.

The Authority's resistance to Kings County's requests has caused a tremendous burden on County leaders and staff who have exhausted resources attempting to receive information regarding the details of the Project and its expected impacts on the community and its agriculture-based economy. The County has requested, but not received, details on how the Authority plans to resolve inconsistencies with the County's planning policies and safety concerns.

The Project is a joint project between the Authority and the Federal Railroad Administration ("FRA"). Therefore, when the Authority would not coordinate, the County turned to FRA for coordination. FRA never coordinated with Kings County. Kings County then sought assistance from the Governor. This too was ignored. Kings County also reached out to the U.S. Environmental Protection Agency to no avail. These efforts are outlined in detail in the County's October 19, 2012 comment letter to both the Authority and FRA regarding its July, 2012 revised draft environmental impact report/supplemental draft environmental impact statement. Due to the volume, I have included only pages 1-5 and 135 of the comment letter (Exhibit "A"). These provide a detailed perspective of Kings County's efforts. Kings County would be most willing to supply the entire 135 page letter and all of the referenced exhibits for your review.

The Nation's first high-speed rail project has been poorly managed and oblivious to the people it will harm, the communities it will destroy, and has been planned and implemented in defiance of state and federal laws. Please consider these facts and initiate a review of the Project for compliance with the Interstate Commerce Act. Your attention to this matter and notice of any petition received regarding the Project would be most appreciated.

Sincerely,



Doug Verboon, Chairman

- cc: Dan Richard, Chairman, California High Speed Rail Authority
- Jeff Morales, Chief Executive Officer, California High Speed Rail Authority
- Diana Gomez, Central Valley Regional Director, California High Speed Rail Authority
- Jared Blumenfeld, Region 9 Administrator, U.S. Environmental Protection Agency
- Ray LaHood, Secretary, U.S. Department of Transportation
- Rudy Salas, District 32, California State Assembly Member
- Jeff Denham, Tenth District, U.S. Congress
- DeAnn Baker, Director of Legislative Affairs, California State Assoc. of Counties



**KINGS COUNTY  
COMMUNITY DEVELOPMENT AGENCY**

**Gregory R. Gatzka, Director  
Chuck Kinney, Deputy Director – Planning  
Darren Verdegaal, Deputy Director - Building**

Web Site: [www.countyofkings.com/planning/index.html](http://www.countyofkings.com/planning/index.html)

October 19, 2012

California High Speed Rail Authority Board  
c/o Mr. Mark McLoughlin  
1770 "L" Street, Suite 800  
Sacramento, CA 95814  
E-MAIL: [Fresno\\_Bakersfield@hsr.ca.gov](mailto:Fresno_Bakersfield@hsr.ca.gov)

Federal Railroad Administration  
c/o Mr. David Valenstein  
MS-20, W38-303  
1200 New Jersey Avenue, SE  
Washington, DC 20590  
E-MAIL: [david.valenstein@dot.gov](mailto:david.valenstein@dot.gov)

Re: Comments Regarding the July, 2012 Draft EIR/Supplemental EIS for the Fresno-Bakersfield Segment of the California High Speed Rail Project

Greetings:

**The purpose of this correspondence is to provide comments and put you on notice of the legal violations that will occur if the project Revised DEIR-Supplement DEIS (R-DEIR/S-DEIS) is approved and/or a ROD issued.** The Kings County Board of Supervisors requests this correspondence and each and every attachment referenced herein and incorporated hereby be entered into the administrative record of the Fresno to Bakersfield project segment of the California High Speed Rail project. In addition to the Exhibits specifically referenced herein, the 2011 comments previously provided are also included. Most of the comments were not addressed in the R-DEIR/S-DEIS.

The Kings County Board of Supervisors ("BOS") represents a constituency of 153,000 in Kings County ("County"), and with respect to the Tulare-Kings-Lemoore proposed station area, collectively speaks for a purported substantial ridership yet has not received the respect of coordination of this project from the California High Speed Rail Authority ("Authority"), the Governor of the State of California, the Federal Rail Authority ("FRA"), nor the U.S. Environmental Protection Agency ("USEPA"), despite its tireless efforts to coordinate. The Authority publicly ignored Kings County and its legitimate government and community concerns, conflicts and impacts, while promoting the opposite to the media. These efforts are outlined in prior correspondence (Exhibit A) and transcripts (Exhibit B) and additionally summarized below.

Twenty-five percent of the 114 mile "spine" of the statewide high speed rail project comes through Kings County agricultural land, yet Kings County has been consistently overlooked and avoided, and treated with disdain when it dared ask for information and coordination of the proposed project (*see* Exhibits A and B).

This correspondence provides comments on the R-DEIR/S-DEIS and seeks resolution of the issues that you have been adequately notified of over the last two plus years. It requires both procedural and substantive due process and your immediate and good faith effort to resolve these issues as mandated by both NEPA and CEQA and other relevant laws. Your failure to do so will result in irreparable harm to Kings County and its constituents. Your active resistance to Kings County's efforts have created an undue burden on Kings County. For that reason, Kings County will seek protections and exercise all remedies available to it by such laws. Ignoring this notice and these comments by moving forward with the project, will only magnify the irreparable harm that will most certainly occur.

#1. California's 2025 Transportation Plan (CTP) indicates: "**Uncoordinated** decision making, single-use zoning ordinances, and low-density growth planning have resulted in increased traffic congestion and commute times, air pollution, greater reliance on fossil fuels, loss of habitat and open spaces, inequitable distribution of economic resources, and a loss of a sense of community." (CTP P.vi bold emphasis added) Despite the recognition that coordination is vital, the Authority has refused to coordinate and insists upon a destructive alignment that obliterates already impacted communities and their existing transit oriented development rather than choose the less destructive alternative along existing transportation corridors (Hwy. 99) which would serve a much greater ridership population. Why?

#### **KINGS COUNTY'S ATTEMPT TO COORDINATE THE PROJECT AND RESOLVE CONFLICTS**

- March 4, 2011 – Kings County Board of Supervisors wrote to Roeloff Van Ark expressing concern regarding impacts and seeking coordination;
- March 29, 2011 – Roeloff Van Ark wrote to County thanking it for its interest in the project but declining to meet to coordinate and directing the County instead to its Area Program Manager for the Central Valley;
- April 19, 2011 – CHSRA representatives appeared at County's scheduled coordination meeting, received hours of testimony regarding concerns and impacts, but refused to acknowledge coordination or discuss resolution of project conflicts and instead directed the County to the environmental review process;
- May 5, 2011 – CHSRA Chairman Pringle demeaned Kings County Farm Bureau Executive Director when she attempted to call attention to the lack of coordination;
- May 17, 2011 – CHSRA Area Program Manger for the Central Valley ignored the request for a follow-up coordination meeting where he was to bring solutions to conflicts raised at the April 19, 2011 multi-hour meeting and instead indicated "[i]f there are issues of particular interest that you wish to discuss, please advise ..."
- June 7, 2011 – CHSRA Program Manager again appeared before the Kings County Board of Supervisors and refused to coordinate, but assured the Board that all its concerns would be addressed in the environmental document;
- August 2, 2011 – Kings County Board of Supervisors wrote to Federal Railroad Administration, co-lead agent of the project, and requested it coordinate because CHSRA refused;
- August 12, 2011 – CHSRA released the Draft EIR/EIS which was posted in the Federal Register;

To: California High Speed Rail Authority  
and Federal Railroad Administration

October 19, 2012

Page 2 of 135

Comments of Kings County on R-DEIR/S-EIS

- August 25, 2011 – Kings County Board of Supervisors wrote to Governor Brown outlining disappointment with CHSRA and lodging a plea for help from the Governor.
- September 12, 2011 – Federal Railroad Administration Administrator, Joseph Szabo responded to the County’s request for coordination by recounting the environmental process, referring the County to the Draft EIR/EIS and thanking the County for its interest in the project. The response failed to address the County’s coordination request and all of its concerns;
- October 12, 2011 -- Kings County Board of Supervisors submitted comments on the Fresno to Bakersfield Project Draft EIR/EIS which outlined unresolved concerns and issues with HSR plans through Kings County;
- November 2, 2011 -- Kings County Board of Supervisors sent a letter to Federal Railroad Administration Administrator, Joseph Szabo. It contained a 26 page history of attempted coordination and reiterated the unresolved issues with the CHSRA plans through Kings County;
- January 31, 2012 – Kings County Board of Supervisors wrote again to Governor Brown seeking a response to its August 25, 2011 correspondence and again asking for assistance in coordinating with the CHSRA and co-lead agent, Federal Rail Administration (“FRA”);
- February 3, 2012 – New CHSRA Chairman Dan Richard wrote to Kings County Board of Supervisors to let them know their prior comments and suggestions “do not fall on deaf ears” and suggesting a new era of ability to work collaboratively.
- February 9, 2012 – Kings County Board of Supervisors wrote to CHSRA Chairman Dan Richard accepting his invitation to meet in person and coordinate the Project;
- April 3, 2012 – CHSRA Chairman Dan Richard acknowledged Kings County’s May, 2011 letter to the CHSRA outlining 61 conflicts/issues and seeking resolution. Mr. Richard indicated: ***“It is with great chagrin that I say to you something you already know, which is that those questions were never responded to by the High Speed Rail Authority. So let’s just get that out right here. That certainly was not a proper way in which we needed to interact with either you or this community that you represent. So I want to acknowledge that, because it was wrong, and I want to try to see where we can start from here.”*** (Pages 18-19 of transcript of April 4, 2012 meeting between Mr. Richard and Kings County Board of Supervisors) Mr. Richard continued by admitting that a lot of the issues are “highly technical” and agreed to work with Kings County to address those issues before the environmental document is re-released stating that at that point it “gets very formal”. Finally, he admitted that “..we stubbed our toe a little bit in the past.” (Pages 20-22 of 4-4-12 meeting). The agreed process was to have technical meetings with CHSRA staff which were transcribed by a court reporter and then the staff of Kings County would report to both Mr. Richard and the Kings County Board of Supervisors regarding the outcome and progress of those meetings. CHSRA staff would show up and listen, but were disorganized and never actually resolved any issues raised consistently by the County;
- May 4, 2012 – County and CHSRA staff met to reiterate unresolved issues (which had been detailed in advance correspondence) and to begin technical discussions;
- May 8, 2012 – County staff reported to Kings County Board of Supervisors and Mr. Richard regarding 5-4-12 technical meeting;
- June 4, 2012 -- County and CHSRA staff met to reiterate unresolved issues (which had been detailed in advance correspondence) and to begin technical discussions;

- June 12, 2012 – County staff reported to Kings County Board of Supervisors and Mr. Richard regarding 6-4-2012 technical meeting. Staff expressed its frustration at lack of any progress as follows: “The technical meetings of May 4<sup>th</sup> and June 4<sup>th</sup> of 2012 have allowed Kings County staff to review with Authority staff and consultants groupings of unanswered questions or generalized answers, but to date has not resulted in the resolution of even one of the project’s conflicts with Kings County’s 2035 General Plan.” (Pages 5-6 of transcript of June 12, 2012 meeting between Mr. Richard and Kings County Board of Supervisors). Staff went on to detail the major outstanding issues that have yet to be addressed. Mr. Richard indicating that he is working on two specific major issues affecting Kings County: dairy re-permitting streamlining and the potential loss of Amtrak. He specifically indicated: “It’s my hope that within the next couple of weeks I can come back with a more specific process, but I actually have had those conversations about organizing a sort of a task force,...that could work with the County to – to really start to get into those issues in detail.” (pages 32-33 of 6-12-12 transcript). We have been apprised of no progress on these issues since that date.
- June 27, 2012 – Kings County Administrative Officer, Larry Spikes, wrote to Chairman Richard to report frustration with the lack of progress and failure of communication.

#### **KINGS COUNTY’S EXASPERATION WITH CHSRA AND OPPOSITION TO HIGH SPEED RAIL**

- October 18, 2011 – Kings County Board of Supervisors Adopted Resolution 11-065 rescinding prior support of the project and opposing it in its entirety based on CHSRA’s “lack of transparency, failure to coordinate and resolve impacts, ignorance of the will of the people expressed in Prop. 1A and its ‘act now, ask forgiveness later’ approach to the Project”;

#### **GROWING OPPOSITION OF CALIFORNIANS AND GOVERNMENTAL SUBDIVISIONS OF THE STATE**

- Numerous political subdivisions and special districts in the State have come out in opposition to the Project;
- May 10, 2011 -- the Legislative Analyst’s office identified numerous problems that threaten the project’s success and called for legislative intervention to improve its likelihood of success;
- November 14, 2011 -- a lawsuit was filed by Kings County and taxpayers Jon Tos and Aaron Fakuda, to prevent CHSRA’s illegal use of Proposition 1A funding;
- December 6, 2011 -- Field Research Corporation issued results of its public opinion poll that found that 64% of those surveyed want another public vote on the \$98-billion project and that 59% would oppose because of changes in its cost and completion date;
- December 15, 2011 – U.S. House Committee on Transportation and Infrastructure Chairman, John L. Mica, held a hearing on “California’s High Speed Rail Plan: Skyrocketing Costs and Projects Concerns”;
- Congress eliminated high speed rail funds requested for 2012;
- January 3, 2012 -- a negative report to the State Legislature was issued by the Prop. 1A commissioned Peer Group. The report indicated: "We cannot overemphasize the fact that moving ahead on the (high-speed rail) without credible sources of adequate funding, without a definitive business model, without a strategy to maximize the independent utility and value to the state, and

without the appropriate management resources, represents an immense financial risk on the part of the State of California.";

- January, 2012 – the State Auditor issued a report on the troubled high-speed rail project, and indicated the CHSRA had addressed some of its prior concerns, but outlined a funding situation that “has become increasingly risky”, identified persistently “weak oversight” and insufficient and unqualified staffing, and violation of state rules prohibiting agencies from splitting contracts to avoid competitive bidding; and
- January 12, 2012 – CHSRA Chairman Umberg and Executive Director Van Ark resigned.

## GENERAL OVERARCHING COMMENTS

#2. Over the past year and a half, the CHSRA Project staff and consultants have routinely rejected, disregarded, dismissed legitimate comments and concerns brought up in relation to site specific impacts that will result from the Project. This R-DEIR/S-DEIS in many instances only provides a basic acknowledgement of potential impacts with simplistic supporting data. It fails to adequately analyze the potential impacts to many resources in Kings County and especially agriculture which serves as a significant economic framework that sustains local communities. This R-DEIR/S-DEIS in providing only Project impacts does not go far enough to provide sufficient impact information for the CHSRA Board consideration who will ultimately make Project decisions based upon this R-DEIR/S-DEIS information.

#3. In order resolve some Project impacts and inconsistencies with Kings County plans, CHSRA staff met with Kings County staff on May 4, 2012 and June 4, 2012. Members of the CHSRA Board met with the Kings County Board of Supervisors on April 3, 2012, May 8, 2012, and June 12, 2012. These meetings resulted in little to no progress in resolving Project related impacts in Kings County and then were ceased by CHSRA due to the release of the R-DEIR/S-DEIS. Therefore, Kings County was placed in a position of having to review technical documents of the R-DEIR/S-DEIS in order to better understand the full potential impacts this Project would have on Kings County. The apparent rush to complete this Project is evident in the incomplete Project information and analysis on the environment, resources and other factors like local economic factors that will be impacted by the Project. A review of some of these R-DEIR/S-DEIS inadequacies is provided below, but not all inclusive as CHSRA provide a near bare minimum public review comment period of 60 days to review thousands of pages of complex technical documents.

## EXECUTIVE SUMMARY

#4. ES-16 The CHSRA intention to seek to acquire agricultural conservation easements in the station vicinity “to the extent practical dependent upon availability” confirms the proposed mitigation is illusory, unenforceable and ultimately ineffective. The R-DEIR/S-DEIS’s failure to evaluate whether there is sufficient land available for agricultural easements (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 728) and its reliance on agreements which have not yet been entered into (*Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4<sup>th</sup> 342, 373) causes this mitigation measure to be illusory and ineffective.

In summary, the R-DEIR/S-DEIS is disappointing. It offers a minimal, low quality approach for one of the biggest public works projects in the State's history. In places it is nonsensical and illogical. It is offensive to Kings County. Much of it contains baseless opinion and conclusion without proper analysis. It lacks true alternatives and related comparisons and analysis. Mitigation is illusory. It overlooks relevant laws. It applies criteria in a discriminatory manner. Kings County has been overlooked and avoided and important decisions were made without Kings County's knowledge or input and inconsistent with its long-term, regionally coordinated planning and health, safety and welfare policies. Kings County was denied the coordination afforded to it by NEPA and other federal transportation statutes and was denied due process under both NEPA and CEQA. This project presented a great opportunity to work in partnership with Kings County, but the overt disregard for local impacts and lack of commitment to resolve local conflicts have lead to very unfortunate circumstances and severely deteriorated local support for this now intrusive project.

Sincerely,

KINGS COUNTY  
COMMUNITY DEVELOPMENT AGENCY

  
Gregory R. Gatzka, Director

EXHIBITS:

Prior 2011 Comments  
A-1, A-2, A-3, A-4  
B-1, B-2, B-3, B-4, B-5  
C-1  
D  
E  
F  
G

cc: Ms. Kathryn Hurd, Attorney Advisory  
Federal Rail Administration-Office of Chief Counsel  
1200 New Jersey Ave, SE  
MS-20 West Building  
Washington DC 20590  
E-Mail: [kathryn.hurd@dot.gov](mailto:kathryn.hurd@dot.gov)

Mr. Thomas Fellenz, General Counsel  
California High Speed Rail Authority  
1770 "L" Street, Suite 800  
Sacramento, CA 95814  
E-MAIL: [tfellenz@hsr.ca.gov](mailto:tfellenz@hsr.ca.gov)