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ATTORNEYS

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April 10, 2013

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ENTERED

Office of Proceedings

April 10, 2013

Part of

Public Record

**BY ELECTRONIC FILING  
EXPEDITED CONSIDERATION REQUESTED**

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

Re: Notice of Intent of Riverdale Public Utility District to Participate in California High Speed Rail Authority, Finance Docket No. 35724, together with accompanying Request for Extension of Time to File Its Protest

Dear Ms. Brown:

This letter constitutes the notice of intent of Riverdale Public Utility District, a California public utility district formed and existing under California Public Utility Code §§ 15501 et seq., and located in Fresno County, California, to participate in the above-referenced proceeding.

The District expects to file a protest to the Petition for Exemption and Motion to Dismiss filed by the California High-Speed Rail Authority ("CHSRA" or "Authority") on March 27, 2013. The District (through its attorney) only became aware of the Authority's filing during the week of April 1. At its regular monthly meeting on April 9, 2013, the District's Board of Directors authorized the District's participation in the above docket matter, and for the District to oppose the attempt by the Authority to exempt itself from the jurisdiction of the Surface Transportation Board.

Submitted for filing with this notice of intent is the District's Request for Extension of Time to File Its Protest to the CHSRA Petition for Exemption and Motion to Dismiss, *for which expedited consideration is requested* due to the pending 20-day time deadline to respond to the Petition and Motion to Dismiss that will soon expire.

The District could not meet the 10 time for an extension request under 49 C.F.R. § 1104.7(a) for the following reasons:

1. The Authority filed its Petition for Exemption and Motion to Dismiss on March 27, 2013.
2. The Authority gave no notice of the above filing.
3. To date, the Authority has given no notice of the above filing to any party.
4. The District's legal counsel learned of the Authority's filing the week of April 1, 2013.
5. The District's Board held its regular monthly meeting on April 9, 2013.
6. At the above meeting, the District's Board, following a report from District's legal counsel, voted to participate in this STB proceeding and to oppose the Authority's Petition for exemption and motion to dismiss.

Lyman D. Griswold  
(1914-2000)

Michael E. LaSalle  
(Retired)

Steven W. Cobb  
(1947-1993)

\*a Professional Corporation

The Honorable Cynthia T. Brown  
Chief, Section of Administration, Office of Proceedings  
Surface Transportation Board  
April 10, 2013  
Page 2

The above sequence of events shows that the District acted at its first opportunity to participate in this proceeding. Therefore, this filing should be accepted though two days beyond the time specified in 49 C.F.R. § 1104.7(a).

The District particularly objects to the total lack of formal legal notice of this proceeding by the Authority, and the attempt to have a matter of great public significance in California decided on what amounts to an ex parte basis, and on a compressed timeline which seems designed to preclude, rather than welcome, openness and public participation. The process amounts to a denial of due process.

An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (Jackson, J.).

Good cause for the extension under 49 C.F.R. § 1104.7(b) exists for the reasons set forth herein and in the Request enclosed herewith.

The District is a public entity. Pursuant to 49 C.F.R. § 1002.2(e)(1), filing fees are waived for an application or other proceeding filed by a local government entity.

The District formally stated its opposition to the California High-Speed Rail Project in Resolution No. 2012-1 adopted on January 3, 2012.

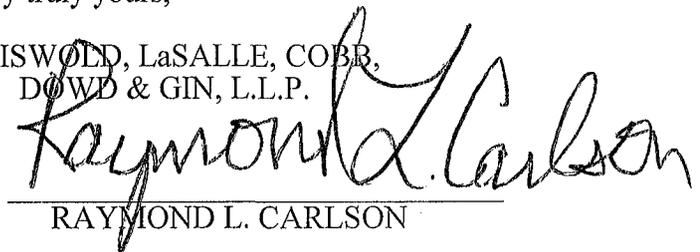
The relief requested by the Authority would exempt a controversial, huge transportation project from STB scrutiny. Yet the only organizations who are likely to present facts and considerations different from the Applicant are certain local government entities like Riverdale Public Utility District and non-profit citizens' groups. Our ability to participate as parties would assist the STB in developing all the facts needed to reach a proper determination on the merits.

Thank you for your consideration.

Very truly yours,

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

By:



RAYMOND L. CARLSON

Enclosure

cc: Ron Bass  
cc: via e-mail/Linda J. Morgan/Kevin M. Sheys  
Peter W. Denton/Thomas C. Fellenz

**EXPEDITED CONSIDERATION REQUESTED**

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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FINANCE DOCKET NO. 35724  
CALIFORNIA HIGH-SPEED RAIL AUTHORITY  
- CONSTRUCTION EXEMPTION -  
IN MERCED, MADERA AND FRESNO COUNTIES, CALIFORNIA

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**REQUEST OF RIVERDALE PUBLIC UTILITY DISTRICT  
FOR EXTENSION OF TIME TO REPLY TO  
MOTION TO DISMISS PETITION AND PETITION FOR EXEMPTION OF  
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**

RAYMOND L. CARLSON, CA BAR #138043  
LAURA A. WOLFE, CA BAR #266751  
GRISWOLD, LaSALLE, COBB,  
DOWD & GIN, L.L.P.  
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Telephone: (559) 584-6656  
Facsimile: (559) 582-3106

EXEMPT FROM FILING FEE  
PER 49 CFR § 1102.2(e)(1)

Counsel for Riverdale Public Utility District

DATED: April 10, 2013.

Riverdale Public Utility District hereby requests an extension of time within which to oppose the California High-Speed Rail Authority's ("CHSRA" or "Authority") Motion to Dismiss Petition for Exemption from the prior approval requirements of 49 U.S.C. § 10901.

The District is a California public utility district formed and existing under the provisions of California Public Utility Code §§ 15501 et seq. The District provides the vital municipal services of water, wastewater, solid waste disposal and street lighting to the unincorporated community of Riverdale, CA, Fresno County, CA, in proximity to the projected path of the California High-Speed Rail Project.

The Authority incorrectly states that its Petition pertains to the construction of a "dedicated intrastate high-speed passenger rail line between Merced, CA and Fresno, CA."

On March 27, 2013, the Authority filed: (1) a PETITION FOR EXEMPTION under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10901, and concurrently (2) a MOTION TO DISMISS PETITION FOR EXEMPTION OF CALIFORNIA HIGH SPEED RAIL AUTHORITY. The Authority's Motion to Dismiss asserts that STB lacks jurisdiction over construction of its projected \$6 billion new rail line, asserting that this rail line is not "part of the interstate rail network" within the meaning of 49 U.S.C. § 10501(a)(2)(A). CHSRA concedes, as it must, that "The determination of whether an intrastate passenger rail service is part of the interstate rail network is a fact-specific determination."<sup>1</sup> The same is necessarily true regarding certain factors on which the STB must make a determination under 49 U.S.C. § 10502 on whether or not an exemption is necessary to carry out the transportation policy of 49 U.S.C. § 10101.<sup>2</sup>

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<sup>1</sup>CHSRA Motion to Dismiss, p. 6, quoting *All Aboard Florida*, STB Finance Docket No. 35680, at p. 3 (Dec. 21, 2012).

<sup>2</sup>*E.g.*, 49 U.S.C. § 10101 (4)-(5): "(4) 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; [and] (5) to foster sound economic conditions in transportation and to ensure effective competition and coordination between rail carriers and other modes;"

The Authority has been selective and limited in the information that it has chosen to place in the record. For example, the Authority carefully asserts that it has no *current* (i.e., not yet) contracts or arrangements for through ticketing or for use of its HST system for interstate passenger service. But the Authority has not disclosed plans it may have for any such arrangements, and when and how it intends to implement such plans--despite the fact that its April 2012 Revised Business Plan boasts of its “blended systems and blended operations, which are the *integration of high-speed trains with [Amtrak's] existing intercity [rail lines]* and regional/commuter rail systems *via coordinated infrastructure (the system) and scheduling, ticketing, and other means (operations).*”<sup>3</sup> (emphasis added) Specifically, the April 2012 Revised Business Plan states:

“At all phases of development, [the Authority] seeks to use new and existing rail infrastructure more efficiently through coordinated delivery of services, *including interlining of trains from one system to another, as well as integrated scheduling to create seamless connections.* . . .

“Through collaborative planning and implementation, *the [Amtrak] San Joaquin rail service (fifth busiest in the nation) will be shifted to [run on the tracks of] the first construction segment upon its completion*, resulting in a 45-minute time savings; through complementary improvements, this will tie with [Amtrak's] ACE [Altamont Corridor Express] to provide new, expanded, and improved rail service throughout northern California, connecting the Central Valley with the San Francisco Bay Area and Sacramento region.”<sup>4</sup> (emphasis added) “*Planning for early interim service [by Amtrak] on the IOS [initial construction] segment is already underway, with the goal of commencing Amtrak operations as soon as possible after construction is complete in 2017.* The Authority is already [in April 2012] collaborating with its transportation partners to identify and address the technical and policy issues that would be associated with developing early service. Through this process, agreements will be worked out on a range of issues, including how and where the service would operate, how it would be integrated with other systems, and how to transition to revenue HSR service as the IOS is completed.”<sup>5</sup> (emphasis added)

Thus, Amtrak's San Joaquin passenger rail service is, and will continue to be, part of the interstate rail network through, *inter alia*, its Sacramento connections with its California Zephyr and Coast Starlight interstate passenger services. The District should be allowed to develop the record to show that to be true when the Sacramento-bound Amtrak trains run on the Authority's tracks.

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<sup>3</sup><http://www.cahighspeedrail.ca.gov/assets/0/152/431/1a6251d7-36ab-4fec-ba8c-00e266dadec7.pdf> p. 2-1.

<sup>4</sup>Id. at Exh. ES-1.

<sup>5</sup>Id. at p. 2-14.

Accordingly, the District anticipates it will work with other protestants in the initiation and conduct of discovery, including requests for production of documents, relating to the foregoing and similar CHSRA statements of integration with Amtrak and other passenger rail services. The purpose of such discovery will be to ascertain, in order to place in the record, relevant facts solely within the control of the CHSRA and its consultants that we believe would show that the facilities CHSRA proposes to construct will be “part of the general system of rail transportation and are related to the movement of passengers . . . in interstate commerce.”<sup>6</sup> *DesertXpress Enterprises, LLC*, STB Finance Docket No. 34914, p. 9 (May 7, 2010).

**Accordingly, the District requests that its time to file its response to the Authority's Petition for Exemption and accompanying Motion to Dismiss be extended for fifteen days and, provided that within that time it notifies the STB that it has initiated discovery requests to CHSRA, its time to respond be extended for an additional fifteen days from (a) its receipt of the requested discovery or (b) the denial of its timely motion to compel discovery, whichever occurs first.**

In consideration of this request, the STB must balance the Authority's desire for a quick resolution against the time reasonably required by prospective opponents to review statements made by the Authority which relate to the matters at issue in this proceeding, including, but not limited to the various versions of its Business Plan, transcripts of testimony of its officials in legislative hearings, its cooperative funding agreements with the Federal Railroad Administration, its Funding Plan, resolutions of its Board of Directors, its response to comments in EIR/EIS proceedings, staff reports to its Board of Directors, etc. All told, these constitute thousands of pages of documents. The 20-day time limit now in place is not adequate given the issues presented, the extensive documentary record, and the limited resources that most prospective opponents possess, including the District.

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<sup>6</sup>The District plans participate with others to initiate similar discovery of CHSRA regarding the provisions of section 10101 (4)-(5), quoted in fn. 2, *supra*.

The STB should also take into account that the time crunch that CHSRA believes it has is a product of its own conscious decision. Thus, as long ago as October 2009, the Authority advised the Federal Railroad Administration:

“Additionally, CHSRA will address potential jurisdiction of the Surface Transportation Board (STB) over any aspect(s) of the HST project and work to ensure timely completion of all prospective regulatory oversight responsibilities consistent with the project delivery schedule.”<sup>7</sup>

Apparently, CHSRA made a conscious decision *not to apply* for a STB determination of its jurisdiction and CHSRA's possible exemption--when there was plenty of time for an orderly proceeding that would allow all interested parties the full opportunity to discover and present all the relevant facts and considerations. The Authority should not now be allowed to abbreviate, confine, or restrict that full opportunity in the interests of its expediency or its self-inflicted time crunch.

DATED: April 10, 2013.

Respectfully Submitted,

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

By:

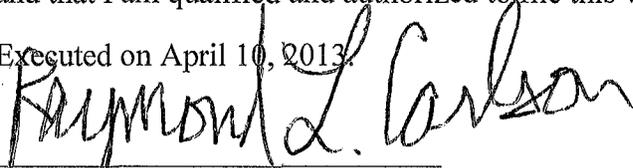
  
RAYMOND L. CARLSON  
Attorneys for Riverdale Public Utility District

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<sup>7</sup>See the Authority's Application Form for Track 2-Corridor Programs of the Federal Railroad Administration's High-Speed Intercity Passenger Rail (HSIPR) Program, p. 23, submitted Oct. 1, 2009.

**VERIFICATION**

I, Raymond L. Carlson, verify under penalty of perjury that the foregoing is true and correct and that I am qualified and authorized to file this verification.

Executed on April 10, 2013.  


RAYMOND L. CARLSON  
Attorney for Riverdale Public Utility District

PROOF OF SERVICE  
CCP §§ 1011, 1013, 1013a, 2015.5; FRCP 5(b)

I am employed in the County of Kings, State of California. I am over the age of 18 years and not a party to the within action; my business address is 111 E. Seventh Street, Hanford, CA 93230.

On, April 10, 2013, I served the following document(s): REQUEST OF RIVERDALE PUBLIC UTILITY DISTRICT FOR EXTENSION OF TIME TO REPLY TO MOTION TO DISMISS PETITION FOR EXEMPTION OF CALIFORNIA HIGH-SPEED RAIL AUTHORITY on the interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

**BY E-MAIL, MAIL & OVERNIGHT DELIVERY**

Linda J. Morgan  
Kevin M. Sheys  
Peter W. Denton  
NOSSAMAN LLP  
1666 K Street, NW  
Suite 500  
Washington, DC 20006

lmorgan@nossaman.com  
ksheys@nossaman.com  
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Attorneys for California High-Speed Rail Authority

Thomas Fellenz  
Chief Counsel  
CALIFORNIA HIGH-SPEED  
RAIL AUTHORITY  
770 L Street, Suite 800  
Sacramento, CA 95814

Attorney for California High-Speed Rail Authority

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tfellenz@hsr.ca.gov

**BY MAIL**

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STUART M. FLASHMAN  
5626 Ocean View Drive  
Oakland, CA 94618-1533

Telephone/Facsimile: (510) 652-5373  
E-mail: stu@stuflash.com

(By Mail) As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under the practice it would be deposited with the U.S. Postal Service on the same day with postage thereon fully prepaid at Hanford, California, in the ordinary course of business.

(By Mail) I deposited such envelope in the United States mail at Hanford, California. The envelope was mailed with postage thereon fully prepaid.

(By Overnight Delivery) I deposited such envelope in the Federal Express/UPS Next Day Air/U.S. Mail Express Mail depository at Hanford, California. The envelope was sent with delivery charges thereon fully prepaid.

(By Electronic Mail) I caused such documents to be sent to the stated recipient via electronic mail to the e-mail address as stated herein.

(By Personal Service) I caused such envelope to be hand delivered to the offices of the addressee(s) shown above.

(By Facsimile) I caused each document to be delivered by electronic facsimile to the offices listed above.

(State) I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

(Federal) I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on April 10, 2013, at Hanford, California.

  
MICHELLE PHILLIPS

RESOLUTION NO. 2012-1

A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE RIVERDALE PUBLIC UTILITY DISTRICT  
OPPOSING THE CALIFORNIA HIGH SPEED RAIL PROJECT

The Board of Directors of the Riverdale Public Utility District finds and declares:

WHEREAS, the District is a public utility district formed under California Public Utility Code §§ 15501-18055 for the purposes of providing water, wastewater, solid waste and street lighting services to the unincorporated community of Riverdale located in southern Fresno County near the Kings County line; and

WHEREAS, Riverdale is a farming community dependent on the agriculture carried out on the surrounding farms and dairies; and

WHEREAS, on or about August 15, 2011, the California High Speed Rail Authority (the "Authority") and the Federal Railroad Administration (FRA) released for public review and comment a Draft Environmental Impact Report/Environmental Impact Statement (DEIR/DEIS) for the Fresno to Bakersfield "section" of the proposed statewide High Speed Rail (HSR) project (Project);<sup>1</sup> and

WHEREAS, the DEIR/DEIS consists of over 17,000 pages including technical appendices and memoranda; and

WHEREAS, the Authority only allowed a 45 day comment period ending September 28, 2011 and later extended the comment period to 60 days ending on October 13, 2011; and

WHEREAS, the 60 day period to review and submit comments on the DEIR/DEIS was legally inadequate under both state and federal law, including constitutional law; and

WHEREAS, the inadequate time allowed to review and comment on the 17,000 page DEIR/DEIS constituted a denial of due process to the District and all other parties who were precluded by the legally inadequate comment period from making the kind of thorough review necessary to prepare informed reasoned comments on the presentation of the environment impacts of the Project as said Project is disclosed in the DEIR/DEIS; and

WHEREAS, the Authority ignored the requests of over 25 interested parties, including the District, requesting an adequate comment period that would run through mid February 2012; and

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<sup>1</sup>On the same day, the Authority/FRA released a DEIR/DEIS for the Merced to Fresno "section" which consisted of over 24,000 pages, for a total of approximately 41,000 pages for the two documents.

WHEREAS, no good reason exists, or was ever stated, for ignoring and not acting on the multiple requests for a legally adequate review and comment period; and

WHEREAS, the Authority also ignored the request for a special Board meeting to address the issue of the legally inadequate review and comment period; and

WHEREAS, the DEIR/DEIS claims that the Project will not have growth inducing impacts and will not have significant environmental impacts associated with growth, but at the same time the Authority claims on its website in a January 2011 fact sheet that the Project will create 600,000 “construction-related jobs” and “450,000 permanent new jobs created by the economic growth high-speed rail will bring over the next 25 years”; and

WHEREAS, the claim of 600,000 “construction-related jobs” is not credible because it is twelve times greater than the maximum workforce employed at any one time on construction of the Panama Canal,<sup>2</sup> an incomparably greater project; and

WHEREAS, the DEIR/DEIS only presents the Project at a 15% design level and is therefore inadequate as a CEQA/NEPA disclosure document; and

WHEREAS, on or about September 8, 2011 without any notice or opportunity to be heard, the Authority Board and/or its staff secretly and illegally cancelled the scheduled September 22, 2011 regular Board meeting and in so doing violated the First Amendment petition rights of commenters and interested parties by eliminating the last opportunity to appear before and address the Board prior to the close of the comment period on the DEIR/DEIS; and

WHEREAS, in 2008 the voters of California were told the Project would cost \$43 billion (2006 estimate) and asked to approve a \$9.5 billion bond issue which would cost the people of California at least \$19.4 billion or \$647,000,000 per year for 30 years; and

WHEREAS, on November 1, 2011, the Authority released a “revised” business plan estimating the cost of the Project at over \$99 billion and pushed back the completion date of the Project from 2020 to 2034; and

WHEREAS, the State government is running deficits of billions of dollars per year, with no end in sight, or plan to pay such debt; and

WHEREAS, the federal government is running deficits of trillions of dollars per year, with no end in sight, or plan to pay such debt; and

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<sup>2</sup>See D. McCullough, The Path Between the Seas: The Creation of the Panama Canal 1870-1914 (1977), at 559 (full work force in last years of construction was 45,000 to 50,000).

WHEREAS, economic dislocation caused by the above policies is impoverishing tens of millions of Americans; and

WHEREAS, Proposition 1A approved by voters in 2008 requires the Project to “follow existing transportation or utility corridors to the extent feasible and shall be financially viable, as determined by the authority”; and

WHEREAS, the proposed Project as disclosed in the DEIS/DEIS fails to follow existing transportation or utility corridors and instead would pass through or cross hundreds of farm properties in Merced, Madera, Fresno, Kings and Kern Counties including land enrolled in the Williamson Act, land designated as prime farmland, unique farmland and other high value protected agricultural lands and permanently physically divide these lands with a grade separation barrier blocking all human and animal movement; and

WHEREAS, the proposed Project would disrupt long standing farming and cultural practices on many parcels of farmland in Fresno County, including many in the vicinity of the District; and

WHEREAS, the impenetrable physical barrier formed by the grade separation will block normal, customary movements of people and goods, traffic and wildlife; and

WHEREAS, the impenetrable physical barrier formed by the grade separation will destroy the visual and other aesthetics of many farms and rural homesteads and the countryside in general; and

WHEREAS, on October 18, 2011, the Kings County Board of Supervisors adopted Resolution No. 11-065 “In the Matter of Revoking and Rescinding Resolution 10-033 and Opposing the California High Speed Rail Authority High Speed Train Project,” a true and correct copy of which is attached as Exhibit “A”; and

WHEREAS, the District concurs in all of the reasons stated by the Kings County Board of Supervisors in opposition to the Project, and for many other reasons too numerous to detail herein.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Directors of the Riverdale Public Utility District that the District opposes the California High Speed Train Project as being not in the interests of the District or of the small farmers who for generations have farmed their lands in the area of District; and

FURTHER RESOLVED, by the Board of Directors of the Riverdale Public Utility District that due to the lack of democratic openness and lack of due process in the planning and environmental impact evaluation of the Project, the lack of openness and responsiveness of the Board and the staff of the Authority, the lack of accountability of the Board and the staff of the Authority if the Project does not satisfy the claims of the Project’s cost effectiveness, financial viability, job creation, ridership and revenue forecasts, and the environmental efficacy of the Project, such that the Project as advocated by the Board and its staff is not in the best interests of the people of the State of California; and

FURTHER RESOLVED, that the Staff of the District is directed to forward copies of this Resolution to all appropriate local, county, State and Federal government agencies and officials in order to make known the District's opposition to the Project.

WHEREFORE, the foregoing Resolution was passed and adopted at a regular meeting of the Board of Directors of the Riverdale Public Utility District held January 3, 2012, at Riverdale, California, by the following vote:

AYES: Talley, McMillan, Swearingen, Mendes  
NOES: None  
ABSENT: Petty  
ABSTAIN: None

By:   
ERNEST MENDES, PRESIDENT  
BOARD OF DIRECTORS

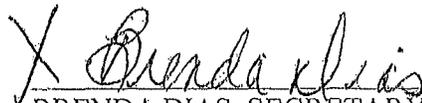
ATTEST:

  
BRENDA DIAS, BOARD SECRETARY

CERTIFICATE OF BOARD SECRETARY

I, Brenda Dias, the duly appointed Board Secretary of the Riverdale Public Utility District, declare that the foregoing Resolution was passed and adopted at a Regular Meeting of the Board of Directors of the Riverdale Public Utility District held on January 3, 2012 at Riverdale, California.

DATED: January 3, 2012.

  
BRENDA DIAS, SECRETARY

C:\ARL\CARPUD\RESOLUTIONS\2012-01.wpd

# **EXHIBIT “A”**

To Resolution No. 2012-1 of the Board of Directors of the  
Riverdale Public Utility District  
Opposing the California High Speed Rail Project

Resolution No. 11-065 of the  
Board of Supervisors of the County of Kings

**BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF KINGS, STATE OF CALIFORNIA**

\*\*\*\*\*

**IN THE MATTER OF REVOKING AND  
RESCINDING RESOLUTION 10-033 AND  
OPPOSING THE CALIFORNIA HIGH-SPEED  
RAIL AUTHORITY HIGH-SPEED TRAIN PROJECT**

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**RESOLUTION NO. 11-065**

WHEREAS, California voters approved Proposition 1A on November 4, 2008 and the Legislature codified the *Safe, Reliable High-Speed Passenger Train Bond Act for the 21<sup>st</sup> Century* ("the Act"; AB 3034; See Streets and Highways Code Sections 2704-2704.1); and

WHEREAS, the Act provides \$9.1 billion in bond funds to finance a high speed electrified train system designed along existing transportation corridors to achieve mandated travel times between population centers and to operate without government subsidies, that will connect the San Francisco Bay Area and Sacramento in the north, through the Central Valley to Los Angeles, Orange County and San Diego in the south (collectively the "Project"); and

WHEREAS, federal American Recovery and Reinvestment Act ("ARRA") money has been allocated to the California high-speed train Project; and

WHEREAS, a nine-member California High-Speed Rail Authority ("Authority") was appointed pursuant to the Act and Public Utilities Code Section 185020 to plan and implement the Project pursuant to the Act and all applicable law and implementing regulations; and

WHEREAS, the Authority and the Federal Railroad Administration ("FRA") are co-lead agencies for purposes of environmental review of the Project under the California Environmental Quality Act ("CEQA") and the National Environmental Protection Act ("NEPA"); and

WHEREAS, on May 25, 2010, the Kings County Board of Supervisors resolved (Resolution #10-033) that it:

1. Supports the continuing development of high-speed rail on a statewide basis;
2. Supports a unified approach for the Central Valley, should the rail be designated to traverse through it;
3. Supports routes that use existing transportation corridors and rights-of-way; and
4. Opposes any and all alignments where transportation corridors do not exist at the present time; and

WHEREAS, revocation and rescission of Resolution 10-033 and opposition to the California High-Speed Rail Authority High-Speed Train Project is under consideration based on the following findings:

Findings:

1. The Authority and FRA have failed and continue to fail to coordinate with Kings County regarding the Project and its impacts on the health, safety and welfare of the County and its local planning documents and ordinances; and
2. The Project does not conform with the County's General Plan and related ordinances; and
3. Prior to release of the Draft Environmental Impact Report/Environmental Impact Statement ("DEIR/EIS") for the Fresno to Bakersfield Section of the Project, the Authority and FRA assured Kings County Board of Supervisors that local planning issues and health, safety and welfare concerns would be addressed in the DEIR/EIS, but it has not been done despite detailed correspondence presented to the Authority and FRA and introduced in attempted coordination meetings by Kings County Board of Supervisors; and
4. The DEIR/EIS defers mitigation analysis on many of the impacts that will affect not only Kings County property owners, but Kings County Government and County staff resources and fails to resolve conflicts with the County's General Plan; and
5. The DEIR/EIS proposes that the Bakersfield to Fresno Section will not initially be electrified, in violation of Proposition 1A, which requires an electrified high-speed train system; and
6. The DEIR/EIS further indicates that if the entire high-speed train system anticipated by Prop. 1A is not built out as anticipated, the track for the Bakersfield to Fresno Section will have "independent utility" for Amtrak purposes and will qualify under ARRA funding requirements. This completely ignores the local investment in the existing transportation hub and intermodal connectivity and planning as well as economic impacts on affected downtowns and the air quality and greenhouse gas impacts created by altering the hub; and
7. The Fresno to Bakersfield Section DEIR/EIS consists of more than 17,000 pages and relies on technical documents that combined total more than 30,000 pages yet the Authority provided for a 45-day comment period with a token 15 day extension for a total of 60 days; and
8. Just before expiration of the inadequate 60 day review period, rather than respond to a flood of requests for extension of the comment period, the Authority, without evaluating the impacts, issued a statement that it intends to retain the 60 day comment period for the DEIR/EIS, proceed with the separate Merced to Fresno Section DEIR/EIS, but "re-introduce an alternative route, the Hanford West Bypass alternative, along with an alternative station location to serve the Kings/Tulare region" and then issue a revised draft EIR/supplemental draft EIS for the Fresno to Bakersfield Section only in Spring of 2012. Had the Authority coordinated with the County as requested, this may have been avoided, and the Authority's bad-faith behavior has exhausted local resources only to have to start all over again in the Spring of 2012. To further demonstrate the Authority's mismanagement of this Project and unwillingness to account for local input, the Hanford West alternative is reintroduced as a preferred alternative from the Authority's 2007 Visalia-Tulare-Station Feasibility Study, which was adopted

without environmental review, without outreach by the Authority or contact with Kings County, and was previously abandoned without explanation. In other words, it adopted particular alignments without public or agency input despite claiming to "tier" off of the earlier general programmatic environmental document. Also, despite a letter from a federal responsible agency, the U.S. Army Corps of Engineers, suggesting that it should reconsider the Hanford West alignment the Authority on May, 2011 refused to comply and remained undeterred in its effort to issue the Project DEIR/EIS. Now, at the end of the DEIR/EIS comment period, the Authority is backtracking and indicating it will reconsider this alternative; and

9. The Authority'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, have caused the Kings County Board of Supervisors to revisit its prior Resolution 10-033.

**NOW, THEREFORE, IT IS HEREBY RESOLVED** that the Kings County Board of Supervisors:

1. Affirms the findings herein;
2. **REVOKES** and **RESCINDS** Resolution #10-033 adopted May 25, 2010; and
3. **OPPOSES** the California High-Speed Rail Authority High-Speed Train Project.

The foregoing resolution was unanimously adopted upon motion by Supervisor Joe Neves, seconded by Supervisor Doug Verboon at a regular meeting held on the 18th day of October, 2011, by the following vote:

AYES: Supervisors Neves, Verboon, Fagundes, Valle and Barba  
NOES: Supervisors  
ABSENT: Supervisors

/s/Tony Barba  
Tony Barba, Chairperson of the Board of Supervisors  
County of Kings, State of California

IN WITNESS WHEREOF, I have set my hand this 18th day of October, 2011.

/s/Rhonda Bray  
Rhonda Bray, Deputy Clerk of said Board of Supervisor