

Robert M. Dowd*
 Robert W. Gin*
 Randy L. Edwards
 Jim D. Lee
 Jeffrey L. Levinson*
 Raymond L. Carlson
 Ty N. Mizote*
 Michael R. Johnson*
 Robin M. Hall
 Mario U. Zamora
 Laura A. Wolfe



Griswold LaSalle
 Cobb Dowd & Gin L.L.P.

G · L · C · D · G

ATTORNEYS

A California Limited Liability Partnership including Professional Corporations

111 E. SEVENTH STREET
 HANFORD, CA 93230

Telephone: (559) 584-6656

www.griswoldlasalle.com

December 20, 2013

ENTERED

Office of Proceedings
 December 20, 2013
 Part of the Public Record

Lyman D. Griswold
 (1914-2000)

Michael E. LaSalle
 (Retired)

Steven W. Cobb
 (1947-1993)

*a Professional Corporation

BY ELECTRONIC FILING

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

Notice of Intent of Kings County Water District and Citizens for California High Speed Rail Accountability to Participate in California High Speed Rail Authority, STB Finance Docket No. 35724 (Sub-No.1), together with accompanying Request for Extension of Time to File Protest/Opposition to the Petition

Dear Ms. Brown:

This letter constitutes the notice of intent of Kings County Water District, a California county water district formed and existing under California Water Code §§ 30000 et seq. and located in Kings County, California, to participate in the above-referenced proceeding.

This letter also constitutes the notice of intent of Citizens for California High Speed Rail Accountability, a California nonprofit mutual benefit corporation formed and existing under California Corporations Code §§ 7110 et seq., to participate in the above-referenced proceeding.

This letter joins in the requests of Michael E. LaSalle, Aaron Fukuda for Citizens for California High Speed Rail Accountability, and James R. Janz for Community Coalition on High Speed Rail, filed in this matter on December 9, 10, and 12, 2013, that the Board (1) extend the time beyond December 24, 2013 within which interested parties may respond to the California High Speed Rail Authority's Petition for Exemption of its Fresno to Bakersfield HST Section; and (2) order the Authority to provide reasonable notice of this proceeding and any filing deadlines to all landowners in its proposed Fresno to Bakersfield alignments, as well as to all those who filed replies and opposition papers in FD 35724.

We incorporate by reference the arguments made by Mr. LaSalle, CCHSRA and CC-HSR for such requests. In particular, emphasis should be placed on Mr. LaSalle's argument about the absence and denial of due process which is a hallmark of the Authority's STB proceedings so far.

The Honorable Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
December 20, 2013
Page 2

It appears the Authority filed its current petition on September 26, 2013. The Authority's behavior exhibits certain proclivities, one of which is to give no notice of its pending actions, or the most minimal "notice" it thinks it can get away with.

So it was here. No notice of the filing was given, though the Authority is aware of hundreds of impacted landowners and scores of parties who are interested parties and participated in the prior exemption proceeding of the Merced to Fresno "section" of the high¹ [sic] speed train project.

The Authority discussed Finance Docket No. 35724 in closed session at its September 10, 2013 meeting. See attached meeting agenda. After the closed session, no report out was made about the new STB filing. See attached meeting minutes. There was no Authority meeting (or at least a legal meeting) between September 10, 2013 and September 26, 2013. Therefore the secret decision to make the new filing had to have been made on September 10, 2013.

¹The project is no longer a "high" speed train project. The Authority has admitted it will try to build a "blended" system. This means the use of non-high speed train tracks over which rolling stock will not travel at the speeds required by Prop. 1A. The Authority is not authorized under Prop. 1A or the California Public Utilities Code to build anything other than a high speed train system as described in Prop. 1A and the Public Utilities Code. Therefore the Authority is acting illegally and this matter is being litigated in Sacramento County Superior Court Case no. 34-2011-00113919-CU-MC-GDS (the Prop. 1A case).

In its June 13, 2013 Decision the Board stated at p. 20, footnote 104:

Certain commenters . . . point out that the Authority has not yet resolved all outstanding issues related to the proposed construction, including compliance with FRA grant agreement terms (specifically, reaching agreements with affected railroads) and pending state court litigation. But just as with private construction projects, which are not always ready for immediate implementation upon authorization, because the Board's construction authority is permissive a public authority may seek an exemption prior to resolving these types of issues. Moreover, any ongoing controversy about implementation of the state's bond funding process that some commenters have noted is a matter to be resolved under the laws of California, and not by this agency. Further, while the Authority has apparently not yet entered into an agreement with BNSF Railway nor Union Pacific Railroad (the railroads with whom the Authority is negotiating agreements), neither railroad has submitted comments or become a party in this proceeding.

The "laws of California" do not authorize the Authority to build a non-high speed rail system. Therefore, this Board should not act on the Authority's petition until the Prop. 1A litigation is concluded.

The footnote itself dismisses the significant issues raised. The footnote also omits the fact that the Authority is not only required to reach agreements with UPRR and BNSF, but also with the San Joaquin Valley Railroad, whose road crosses the Authority's alignment in Fresno where it wyes off the UPRR tracks at the Highway 180 overcrossing, and also in Hanford on the road coming west out of Goshen Junction.

The Honorable Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
December 20, 2013
Page 3

The District only learned of the Authority's new filing on December 4, 2013 when the STB released² its Decision denying the Authority's request for a conditional construction exemption. Nineteen days ending on Christmas Eve is insufficient time to allow interested parties to assemble, prepare and present the information and arguments necessary to maintain the credibility and legitimacy of the proceedings the Authority has instituted before this Board.

Therefore, the District requests that the comment and protest period be extended to a point after the Authority and FRA have adopted and certified the final EIR/EIS for the Fresno to Bakersfield "section" of the high speed [sic] train project.

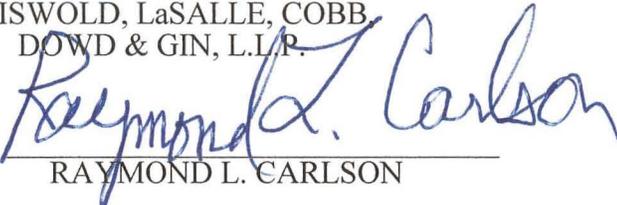
No action is imminent or required on the petition until the Authority and FRA have finalized and certified the EIR/EIS for the Fresno to Bakersfield "section" of the project. The pending Prop. 1A case will be further advanced, and if the Authority cannot discharge the Court's writ of mandate in that case, the project cannot proceed because it cannot meet the requirements of California Street and Highways Code § 2704.08(c)(2)(D).

Prudential considerations and ample good cause for the extension exists under 49 C.F.R. § 1104.7(b) for the reasons set forth in this letter.

Very truly yours,

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

By:


RAYMOND L. CARLSON

Enclosures

cc: w/ encl.
Don Mills
Michael E. LaSalle
Aaron Fukuda
California High-Speed Rail Authority
Federal Railroad Administration

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

C:\RLC\KCWD\STB Matter\STB 12 20 13 re extension.wpd

²The December 3, 2013 Board decision apparently has not been served on any of the interested parties in this case or landowners whose farms and businesses will be ruined by the project which has no chance of being completed in the form it was pitched to the electorate.

PROOF OF SERVICE

CCP §§ 1011, 1013, 1013a, 2015.5; FRCP 5(b); 49 C.F.R. § 1104.12(c)

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, December 20, 2013, I served the following document(s): REQUEST FOR EXTENSION, on the interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

BY EMAIL & MAIL

Linda J. Morgan

Attorneys for California High-Speed Rail Authority

Kevin M. Sheys

Email: lmorgan@nossaman.com

Peter W. Denton

Email: ksheys@nossaman.com

NOSSAMAN LLP

Email: pdenton@nossaman.com

1666 K Street, NW

Suite 500

Washington, DC 20006

Thomas Fellenz

Attorney for California High-Speed Rail Authority

Chief Counsel

CALIFORNIA HIGH-SPEED

RAIL AUTHORITY

Telephone: (916) 324-1541

770 L Street, Suite 800

Facsimile: (916)

Sacramento, CA 95814

BY MAIL—SEE ATTACHED CERTIFICATE OF SERVICE

(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.

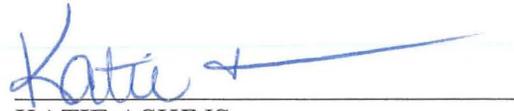
(By Personal Service) I caused such envelope to be hand delivered to the offices of the addressee(s) shown above.

(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 December 20, 2013, at Hanford, California.


KATIE ASKINS

CERTIFICATE OF SERVICE
STB Finance Docket No. 35724 (Sub-No.1)

Descary, William C.
604 Plover Court
Bakersfield, CA 93309-1336

CALIFORNIA HIGH-SPEED
RAIL AUTHORITY
770 L Street, Suite 800
Sacramento, CA 95814

FEDERAL RAILROAD ADMINISTRATION
1200 New Jersey Ave., SE
Washington, D.C. 20590

LaSalle, Michael E.
13771 Excelsior Avenue
Hanford, CA 93230

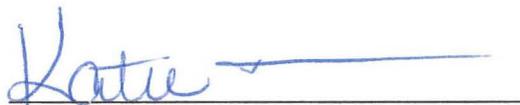
Fresno County Economic
Development Corporation
906 N Street, Suite 120
Fresno, CA 93721

Fresno Council of Governments
2035 Tulare Street, Suite 201
Fresno, CA 93721

Community Coalition on High Speed Rail
2995 Woodside Road, #400-362
Woodside, CA 94062

Citizens for California High Speed
Rail Accountability
P.O. Box 881
Hanford, CA 93232

I certify that I have this day served copies of documents upon all parties of record in this proceeding, by United States mail.


KATIE ASKINS

California High-Speed Rail Authority
September 10, 2013 Board Meeting Agenda



MONTHLY MEETING AGENDA
SEPTEMBER 10, 2013
8:00 AM CLOSED SESSION
10:00 AM PUBLIC MEETING

Secretary of State Auditorium
1500 11th Street
Sacramento, CA 95814

CLOSED SESSION – 8:00 AM Start Time

	<u>Responsible Party</u>	<u>Status</u>	<u>Duration</u>
1. Closed Session Pertaining to Litigation <i>The Authority will meet in closed session pursuant to Government Code section 11126(e)(2)(A) to confer with counsel with regard to the following litigation:</i> <ul style="list-style-type: none"> • <i>John Tos; Aaron Fukuda and County of Kings v. California High Speed Rail Authority, Sacramento Superior Court Case No. 34-2011-00113919</i> • <i>Town of Atherton v. California High-Speed Rail Authority, Court of Appeal, Third Appellate District, Case No. C070877</i> • <i>CHSRA Validation Action; Sacramento Superior Court Case No. 34-2013-00140689</i> • <i>Before the Surface Transportation Board; Finance Docket No. 35724; CHSRA-Construction Exemption</i> <i>The Authority will meet in closed session pursuant to Government Code section 11126(e)(2)(B)(i). The Authority will meet in closed session pursuant to Government Code section 11126(a)(1).</i>	T. Fellenz	--	--

PUBLIC MEETING – 10:00 AM Start Time

PUBLIC COMMENT

For this meeting, an opportunity for public comment will be provided at the outset of the public session of the meeting. **Those persons who wish to comment on agenda and non-agenda items, are required to submit their requests to Board Secretary before the start of the meeting by filling in the green cards.** Typically public comment will be limited to 90 seconds per person, however the Chair may decide to shorten or lengthen the public comment periods, at his or her discretion.

	<u>Responsible Party</u>	<u>Status</u>	<u>Duration</u>
2. Approval of Board Minutes from August 1, 2013 Meeting	----	A	2 min.
3. Status Report on the Request for Qualifications for Construction Package 2-3 <i>Staff will apprise the Board of changes to the approach outlined at the January 2013 meeting.</i>	F. Vacca/S. Jarvis	I	10 min.
4. Approval of the Contingency Fund for Construction Package 1	J. Tapping	A	10 min.
5. Approval of Agreements with Utility Companies for Relocation <i>Staff will present agreements with AT&T and Pacific Gas & Electric for</i>	T. Fellenz	A	10 min.

relocation along the Merced to Fresno project section.

- | | | | | |
|----|---|-----------------------------|---|---------|
| 6. | Request for Delegation of Authority to the CEO to Execute Agreements with Union Pacific Railroad (UPRR) for Engineering, Construction and Maintenance (EC & M) and for related Indemnification and Insurance (I & I) terms. | F. Vacca/
K. Greene-Ross | A | 15 min. |
| 7. | Approval to Issue a Joint Request for Proposals (RFP) for Trainsets with Amtrak <i>Per a cooperative process initiated by the release of a Request for Information in January 2013, the Authority and Amtrak are issuing a RFP for high-speed train sets capable of operating safely at speeds up to 220 mph.</i> | F. Vacca | A | 15 min. |
| 8. | Exempt Employee Pay Program Designation | T. Fellenz | A | 5 min. |

Reasonable Accommodation for Any Individual with a Disability

Any Individual with a disability who requires reasonable accommodation to attend or participate may request assistance by contacting the Authority at (916) 324-1541. Requests for additional accommodations for the disabled, signers, assistive listening devices, or translators should be made no later than one week prior to the meeting.

California High-Speed Rail Authority
September 10, 2013 Board Meeting Minutes



**BOARD MEETING MINUTES
SEPTEMBER 10, 2013**

**Secretary of State Auditorium
1500 11th Street
Sacramento, CA 95814**

The public meeting of the California High-Speed Rail Authority (Authority) Board was called to order on September 10, 2013, at 8:06 AM, Secretary of State Auditorium, Sacramento, CA.

Members Present: Mr. Dan Richard, Chair
Mr. Tom Richards, Vice-Chair
Mr. Jim Hartnett, Vice-Chair
Ms. Lynn Schenk
Mr. Mike Rossi
Mr. Patrick Henning
Ms. Katherine Perez-Estolano
Mr. Richard Frank

Members Absent: Mr. Tom Umberg

Minutes prepared in the order items were presented during the meeting.

The Board Convened at 8:07; adjourning into Closed Session at 8:07 AM.

Agenda Item #1- Closed Session Pertaining to Litigation pursuant to Government Code section 11126(a)(1).

The Board reconvened from Closed Session into Open Session at 10:05 AM.

The Pledge of allegiance was recited.

PUBLIC COMMENT

An opportunity was made for public comment. Speakers commented on a variety of topics.

At 11:47 AM a break was taken; the meeting was reconvened at 11:52 AM

Agenda Item #2- Approval of Board Minutes from August 1, 2013 Meeting

Moved by Vice-Chair Harnett. Ms. Schenk seconded the motion. The August 1, 2013 Meeting Minutes were approved

(7-0). 1 Abstain (Mr. Frank).

Agenda Item #3- Status Report on the Request for Qualifications for Construction Package 2-3

Mr. Scott Jarvis apprised the Board of changes to the approach outlined at the January 2013 meeting. Questions were asked and answered.

Agenda Item #4- Approval of the Contingency Fund for Construction Package 1

Mr. Jon Tapping presented to the board. Questions were asked and answered. Moved by Ms. Schenk. Mr. Rossi seconded the motion. Resolution #HSRA 13-21 was approved unanimously (8-0).

Agenda Item #5- Approval of Agreements with Utility Companies for Relocation

Chairman Richard and Board Members Ms. Schenk and Ms. Perez-Estolano recused themselves from Agenda Item #5.

Mr. Tom Fellenz presented agreements with AT&T and Pacific Gas & Electric for relocation along the Merced to Fresno project section. Questions were asked and answered. Resolution #HSRA 13-22: Moved by Vice-Chair Richards. Vice-Chair Hartnett seconded the motion. Resolution #HSRA 13-22 was approved (5-0). Resolution #HSRA 13-23: Moved by Vice-Chair Richards. Mr. Frank seconded the motion. Resolution #HSRA 13-23 was approved (5-0).

Agenda Item #6- Request for Delegation of Authority to the CEO to Execute Agreements with Union Pacific Railroad (UPRR) for Engineering, Construction and Maintenance (EC & M) and for Related

Indemnification and Insurance (I & I) Terms. Mr. Frank Vacca presented to the board. Questions were asked and answered. Moved by Vice-Chair Hartnett.

Ms. Perez-Estolano seconded the motion. Resolution #HSRA 13-24 was approved unanimously (8-0).

Agenda Item #7 Approval to Issue a Joint Request for Proposals (RFP) for Train Sets with Amtrak

Mr. Frank Vacca presented to the board. Per a cooperative process initiated by the release of a Request for Information in January 2013, the Authority and Amtrak are issuing a RFP for high-speed train sets capable of operating safely at speeds up to 220 mph. Questions were asked and answered. Moved by Mr. Rossi. Vice-Chair Richards seconded the motion. Resolution #HSRA 13-25 was approved unanimously (8-0).

Agenda Items #8- Exempt Employee Pay Program Designation Resolution

Mr. Tom Fellenz reported on the proposed change to the compensation package for the Authority CEO.

As CEO, Mr. Morales stepped out of the meeting during this agenda item. Questions were asked and answered.

Moved by Ms. Schenk. Mr. Rossi seconded the motion. Resolution #HSRA 13-26 was approved unanimously (8-0).

Chairman Richard adjourned the board meeting at 12:28 p.m.