

March 7, 2014

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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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Office of Proceedings
March 10, 2014
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RE: Finance Docket No 35724_01. California High Speed Rail Authority- Construction Exemption-
In Fresno, Tulare, and Kern Counties, CA.

Dear Ms. Brown,

I am writing this letter to voice my opposition to the California High Speed Rail Authority's request for a construction exemption in Fresno, Tulare, and Kern Counties. I also submitted a letter of opposition in the original filing regarding the Madera-Fresno Construction Segment (FD 35724) on May 20, 2013. In reading the decision of that particular case, it appears that the decision to exempt the Merced, Madera and Fresno County High Speed Rail construction segment was largely based on information gleaned from the Madera to Fresno Final EIR/EIS and ROD. It is also important to note that at that time, it was assumed that funding was readily available to complete that segment.

It is of significance to note that Vice Chairman Begeman dissented in part to the June 13, 2013 decision stating: "I fully agree with the Board's rationale for our earlier finding of jurisdiction over the proposed California High-Speed Train System, although I continue to believe we should have provided in the April 18, 2013 decision making the jurisdictional finding. I, however, cannot support granting an exemption here in lieu of a more thorough examination of the proposal through the application process. Under 49 U.S.C. 10901, the Board is directed to generally approve new construction, unless the proposed construction is inconsistent with the public convenience and necessity. But a construction application under 10901 also requires an analysis of factors not considered under a 10502 exemption. One such factor is a project's financial information, including projected costs and funding. Significant federal taxpayer dollars are at stake here, with nearly \$3.5 billion in funding awarded by the Federal Railroad Administration, and those taxpayer dollars may be only the beginning. As such, I believe the public interest showing clearly merits our robust scrutiny in this case. Instead, this decision discounts the agency's responsibilities and largely cedes our judgment to others."

Since that decision was made, the courts have intervened in the process. Funding is even more uncertain. It is a fact that there is no known funding available to complete the Fresno to Bakersfield segment. It is also a fact that the Final EIR for the Fresno to Bakersfield segment is not yet complete. There is a strong possibility that both the County of Kings and the County of Kern will contest that Final

EIR in court. Kern County has been trying to get the CA High Speed Rail Authority to work with them to study an alternative alignment that would bypass the core of the city due to multiple adverse environmental impacts. The Authority refused. Prior to the last Fresno-Bakersfield DEIR, these impacts were not fully disclosed. Many questions remain. It is reasonable to expect that the Authority would study a less impactful alternative alignment given new factual information. Instead they devised and recommended a "hybrid alignment" that parallels the two in the DEIR within a few hundred feet. They purport that this "hybrid alignment" was a collaborative effort, but this is not true. It appears that their refusal has to do with expediting the EIR process to secure some time-sensitive federal funds. Their recommended alignment is clearly not the best choice. Their reasoning is nonsensical and environmentally harmful. It makes absolutely no sense to build miles of elevated track 60-90' high bisecting the city core and creating unnecessary adverse air, noise, and vibration impacts to thousands of Kern County residents, when there is plenty of open land for an alternative alignment that would allow for fewer impacts.

In my view, there are multiple reasons to deny this exemption. Many of them have been clearly and painstakingly outlined in other written submissions to this docket. What stands out the most clearly in the review of the case is this: There is NO final Fresno-Bakersfield EIR/EIS at this point in time. Just that one fact should be enough to deny this exemption. Until that document is reviewed, adopted and all associated legal disputes remedied, it is not in the best interest of California or the Federal Government for your Board to consider any special exemption. I strongly urge you to deny the CA High Speed Rail Authority's Petition for exemption.

Sincerely,

A handwritten signature in cursive script that reads "Carol Bender". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Carol Bender

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Bakersfield, CA 93314