

October 12, 2011

California High Speed Rail Authority

California High Speed Train Project, Merced to Fresno Section

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We address the High Speed Rail Authority (Authority) as a unified group of Bureaus and Member-Based organizations –universally entreating the Authority for an extension of public review period for The *Draft Merced to Fresno Section Project EIR/EIS, Volume I: Report*, dated August 2011(DEIR/DEIS). The California Environmental Quality Act (CEQA) requires the Lead Agency to adhere to specific, statutory time limits for public comments, which the Authority followed on the surface. However, given the magnitude of impacts, level of Project significance, and the rural nature of the public in this case, certain statutes within CEQA were not followed or addressed.

- The Authority did NOT follow CEQA regarding public review of the Draft EIR. Article 7§15087. (a)3 *CEQA Guidelines* states;

“...Direct mailings to the owners and occupants of property contiguous to the parcel or parcels on which the Project is located. Owners of such property shall be identified as shown on the latest equalized assessment roll.”

On few such occasions have the owners of properties been able to verify receipt of any kind of direct communication from the Authority regarding Alternative Alignments currently contained within the DEIR/EIS. The document has changed throughout time, and many property owners have only recently been made aware that their properties lie directly within the path of these proposed Alternatives. Due to the nature of this Project –and its’ plausible designation as a Project of Statewide Significance (Article 13§15206 *CEQA Guidelines* Projects of Statewide, Regional, or Areawide Significance), the public comment period should be extended so that all affected land owners and occupants of properties affected by this Project can be allowed the opportunity to assess the impacts.

- The Authority did NOT follow CEQA regarding the statutory nature of public review and the circumstances of the Project. Article 8 Time Limits§15105 Public Review Period for a Draft EIR or a Proposed Negative Declaration or Mitigated Negative Declaration (a) *CEQA Guidelines* states;

“... The public review period for a Draft EIR should not be less than 30 days nor longer than 60 days except in unusual circumstances...”

Regarding the Project as an unusual circumstance is a necessary action in this case due to the volume of area affected, the high quantity of significant and unavoidable impacts occurring in the Project area, and the extraordinary amount of people and individuals impacted by the Project –both in adverse and beneficial ways. Although the DEIR/EIS was filed correctly and statutory time limits observed –the designation of this Project as an unusual one, should provide for additional review time by those potentially affected.

- The Authority did NOT analyze the Project from a standpoint of Significance. The Project is one of Statewide, Regional, or Areawide Significance. Article 13§15206 Projects of Statewide, Regional, and Areawide Significance (b) states;

“...The lead agency shall determine that proposed project is of statewide regional, or areawide significance if the project meets any of the following criteria:

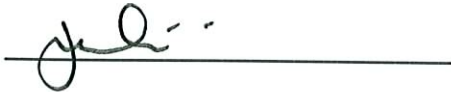
(2) A project has the potential for causing significant effects on the environment extending beyond the city or county in which the project would be located...*and*

(3) A project which would result in the cancellation of an open space contract made pursuant to the California Land Conservation Act of 1965 (Williamson Act) for any parcel of 100 or more acres.”

The Project, as proposed in the DEIR/EIS, is required under the aforementioned CEQA statutes to be considered a Project of Significance –which then requires different levels of review by those agencies and individuals affected. The DEIR/EIS does not address this –nor does it address this in determining its public review and comment period. Although outreach was conducted via workshops in Fresno, Fairmead, LeGrand, and Chowchilla –none of the significance criteria or present alignments were discussed during those workshops. The document, as it stands today, is a new version that needs additional time to be vetted among its affected constituency based on the significance designation. Any outreach efforts performed to date that have not disclosed the significance criteria –are not valid [see *Communities for a Better Environment v. City of Richmond/ 184 Cal. App. 4<sup>th</sup> 70*], and should not be considered a completion of public review. The scope of new information contained in this DEIR/EIS, compared to what the Authority provided to the public via outreach –is not acceptable nor legal in this regard.

We have confidence that the Authority, in light of these issues raised, will address our unified request in seeking additional time regarding the public review of the DEIR/EIS. All facts, opinions, mitigation and effects of the proposed Project should be considered in the discussion of an Environmental Impact Report (Article 9 §15126.2 Consideration and Discussion of Significant Environmental Impacts).

Sincerely,



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