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CONTINUED OVERSIGHT OF THE CALIFORNIA HIGH-SPEED RAIL PROJECT

(114–50)

FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON
RAILROADS, PIPELINES, AND
HAZARDOUS MATERIALS

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

AUGUST 29, 2016 (San Francisco, California)

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Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

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August 26, 2016

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Railroads, Pipelines, and Hazardous Materials
FROM: Staff, Subcommittee on Railroads, Pipelines, and Hazardous Materials
RE: Subcommittee Field Hearing on "Continued Oversight of the California High-Speed Rail Project"

PURPOSE

The Subcommittee on Railroads, Pipelines, and Hazardous Materials will meet on Monday, August 29, 2016, at 9:00 a.m. in the San Francisco Federal Building, located at 90 7th Street, San Francisco, CA, in room B040, to receive testimony regarding the status of the California High-Speed Rail Project (project). The project is the largest in the High Speed Intercity Passenger Rail (HSIPR) program administered by the Federal Railroad Administration (FRA). The Subcommittee will received testimony from representatives of the FRA, the California High-Speed Rail Authority, Caltrain, the State Building and Construction Trades Council of California, and other interested parties.

BACKGROUND

In General

In 1996, the California High-Speed Rail Authority (CHSRA) was created as an independent state entity charged with designing a high-speed train system for the state. CHSRA first introduced a plan in 2000 for a system that would link all of California's major population centers, including the San Francisco Bay Area, Los Angeles, and San Diego. *The Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century*, AB 3034, provided for the issuance of $9.95 billion in general obligation bonds for passenger rail in the state. Though removed from the ballot twice, the bond measure (Proposition 1A) went to the voters on November 4, 2008, and was approved with 52.7 percent of the vote.[1]

[1] Under California law, any bill that calls for the issuance of general obligation bonds must be adopted by each house of the state Legislature by a two-thirds vote, signed by the Governor, and approved by a majority of voters.

Proposition 1A Finances

Proposition 1A authorized the state to sell $9.95 billion in general obligation bonds, $9 billion for the high-speed rail project and $950 million for investments in regional, commuter, and intercity rail. The bonds would be available when appropriated by the legislature. However, the bond funds can only be used for one-half of the total cost of construction of each corridor or segment of a corridor. Proposition 1A requires CHSRA to seek private and other public funds to cover the remaining costs and also limits the amount of bond funds that can be used to fund certain pre-construction and administrative activities. CHSRA applied for and was awarded public funds from the FRA's HSIPR grant program.

High-Speed Intercity Passenger Rail Funding

The California High-Speed Rail project is the single largest beneficiary of federal funding of the HSIPR program under the American Recovery and Reinvestment Act of 2009 (ARRA)[2] and the fiscal year (FY) 2010 Consolidated Appropriations Act.[3] In total, the project has been awarded $3.879 billion, of which $400 million from ARRA is for the San Francisco Transbay Terminal project, $2.55 billion from ARRA is for the Central Valley portion of the project, and $929 million from the FY 2010 Consolidated Appropriations Act is for the Central Valley portion of the project. This represents almost 39 percent of the total HSIPR grant funding awarded by the FRA.

Most of the funding provided for the project will be utilized in California's Central Valley on the Bakersfield-Fresno-Merced sections of the Phase 1 project or ICS. While the $3.48 billion awarded to CHSRA for the Central Valley has been obligated, only $1.4 billion has actually been spent as of August 10, 2016. Under the federal appropriations law "five-year rule," the $2.55 billion in federal funds provided through ARRA must be completely spent by September 30, 2017.[4] Of the $400 million from ARRA for the San Francisco Transbay Terminal project, which was awarded to the Transbay Joint Powers Authority, not CHSRA, $397 million has been spent.

A majority of the federal funding, $2.55 billion, comes under one grant agreement that requires a near 50/50 split of federal and state funding. FRA has revised the grant agreement several times, including in December 2012, to allow for a "tapered match," of federal and state funding. "Tapered match" means federal funding would be spent at a higher rate early on in the project in order to meet the 2017 deadline, with the state match "tapering in" later in the project and even beyond the 2017 deadline.

Recent Changes to the FRA Funding Agreement

[2] Pub. L. No. 111-5, 123 Stat. 208.
[3] Pub .L. No. 111-117, 123 Stat. 3056.
[4] *See* 31 U.S.C. §1552.

On May 18, 2016, FRA and CHSRA revised, for the sixth time, the Cooperative Grant Agreement for ARRA funding. This amended grant agreement maintains the tapered match approach, but also includes several new substantive changes:

1. *Extension of the Performance Period*. Under the original grant agreement, and the five previous amendments, the period of performance that CHSRA was required to report on to FRA was through FY 2018. In other words, while ARRA funds are required under law to be expended by the end of 2017, FRA had previously expected the activities supported by those expenditures (e.g., major construction, testing of equipment) would be completed by the end of 2018. However, the May 18th amendment now extends that performance period through 2022.

2. *Authorizes Advance Payments*. Under FRA's normal processes for capital grants, CHSRA performs work, and then seeks reimbursement of those expenditures from FRA, under the terms of the grant agreement. However, with this amendment, FRA has, for the first time, created a working capital account that would allow CHSRA to receive funds in advance of making expenditures.

3. *Positive Train Control Spectrum Acquisition*. The sixth amendment allows ARRA funds to be used by CHSRA to acquire spectrum necessary for Positive Train Control (PTC).

Recent Changes to Business Plan

The project has undergone a number of different business plans with costs that have varied greatly over time. The first estimate contained in the 2000 Business Plan was $25 billion with a completion date in 2020. The 2008 Business Plan estimated the project would cost $33 billion, with $12-16 billion in federal funds, and a completion date of 2020. One year later in 2009, the estimate jumped to $43 billion, assuming $17-19 billion in federal funds, with a completion date of 2020.

In November 2011, the CHSRA's Draft 2012 Business Plan had the costs skyrocket to a range of $98-118 billion, with approximately $52 billion in federal funds, and a delayed completion date of 2033. After significant public criticism, the CHSRA adjusted its costs downward in a 2012 Draft Revised Business Plan to $68 billion, with $42 billion in federal funds, and a completion date of 2028. The 2014 Business Plan maintained the total Phase 1 lifecycle cost of $68 billion, but now envisioned significant funding coming from 25 percent of proceeds under California's Cap and Trade program. The 2016 Business Plan now estimates a total cost of $64 billion, and, while it continues to assume federal funding, it does not identify a specific amount of additional federal funding needed.

In addition to changing costs, the Business Plans over time have shown a significant change in the direction of the overall program. The 2012 and 2014 Business Plans envisioned a blended approach, under which an initial operating segment would be constructed in the Central Valley, and then would connect to the north (Bay Area) and south (Los Angeles Basin) by tying into existing rail infrastructure (for example, the Caltrain system in the Bay Area).

The 2016 Business Plan takes the project in a new direction: rather than connect to both the north and the south, CHSRA is planning to focus on the north in the near term. The plan envisions building a rail line connecting the Central Valley with Silicon Valley, and then electrifying Caltrain's corridor into San Francisco. Under this plan, CHRSA would begin service between the Central and Silicon Valleys by 2025, which it hopes will develop a record of ridership to spur more private sector investment. However, this change in scope means the planned rail connection between the Central Valley and Los Angeles Basin would be further off, and the existing rail gap between the major population centers would remain for the foreseeable future.

WITNESS LIST

The Honorable Sarah Feinberg
Administrator
Federal Railroad Administration

Mr. Dan Richard
Chairman of the Board
California High-Speed Rail Authority

Mr. Jim Hartnett
CEO
Caltrain

Mr. Stuart Flashman
Attorney
Law Offices of Stuart Flashman

Mr. Robbie Hunter
President
State Building and Construction Trades Council of California

CONTINUED OVERSIGHT OF THE CALIFORNIA HIGH-SPEED RAIL PROJECT

MONDAY, AUGUST 29, 2016

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to call, at 9:06 a.m., in room B040, San Francisco Federal Building, 90 7th Street, San Francisco, CA, Hon. Jeff Denham (Chairman of the subcommittee) presiding.

Present: Representatives Denham [presiding], Farenthold, Capuano, LaMalfa, Huffman, and Lofgren.

Mr. DENHAM. The subcommittee will come to order.

I ask unanimous consent that noncommittee members be permitted to sit with the committee at today's hearing and ask questions.

Without objection, so ordered.

First let me welcome our guests in attendance, as well as our witnesses, and I want to thank Ms. Pelosi. We had a nice conversation. This is a beautiful Federal building, and we enjoy this beautiful space being here in the bay area.

This hearing is about one thing, and that is continued oversight by the Federal Government. There is a huge investment by the Federal taxpayers, as well as by the State taxpayers. So the main focus of this hearing will be on that oversight. This project has been awarded nearly $4 billion in Federal funding, and it represents nearly 40 percent of all high-speed rail funding awarded by the Federal Railroad Administration, the FRA.

That is why I focused on this project since I became chairman of the Subcommittee on Railroads, Pipelines, and Hazardous Materials, and unfortunately I have watched as costs have gone up and up, and project plans have continued to change. When the voters of California approved this as Prop. 1A, they approved a $33 billion project that had equal funding from State, Federal, and private investors. Since then, this project has risen to $43 billion, then over $100 billion, and then cut back down to $64 billion by cutting off San Diego and Sacramento.

The 2016 business plan recently approved by the authority also had a new focus, connecting the Central Valley segment with the bay area via an electrified Caltrain corridor, with no near-term progress on closing the existing rail gap across the Tehachapi Mountains in southern California, meaning right now Amtrak has

to let their passengers off to get on a bus, take the bus over the Tehachapis, and then get back on a train again. So this is something that we are going to have to address as this project moves forward through phase 1.

Today I want to explore what was originally promised to Californians when they approved Prop. 1A in 2008, where the project stands now, and whether there is a realistic plan to complete the project that was sold to voters. We must also look at the Federal taxpayer and what they are going to be on the hook for in the future. Meeting the project mandate may be more difficult than before if the 25-percent set-aside from the California Cap and Trade Program does not produce the revenues the authority is currently counting on. The early Cap and Trade options have not raised the revenue the State was originally expecting, and I look forward to discussing my concerns on that issue today.

I am also happy FRA Administrator Feinberg could be with us today, as her agency recently amended the grant agreement with the authority for the sixth time. I want to discuss the changes made in that agreement and also talk more broadly about what the ongoing Federal involvement with this project will be.

California voters narrowly passed in 2008 this plan before voters. If the project is going to move forward beyond current activities, we need to know what the State and Federal obligation is. If the authority can't provide specific deliverables and a timeframe, then I believe it would be time for Californians to go back to the polls to vote on whether to continue this project.

We have many problems facing California, most notably one of the worst droughts that we have ever seen. The money allocated to this project was part of the Federal stimulus package, which was done 8 years ago. In a State grappling with the lack of an adequate water infrastructure, we could have built long-term, sustainable water storage for a fraction of the cost. There are many shovel-ready projects that will directly benefit millions of California residents, including a number of rail projects in the bay area, a number of transportation projects across the State, and most critical is water infrastructure that could be built.

I would now like to recognize the ranking member, Mike Capuano from Massachusetts, for 5 minutes for any opening statement he may have.

Mr. CAPUANO. Thank you, Mr. Chairman.

First of all, thank you all for having us here, and thank you for coming.

This is an important issue, as is any time the Federal Government spends your tax dollars. In this particular case, it is billions of dollars. I myself am a strong proponent of the concept of high-speed rail any place in this country that can support it. Certainly, I think there is a good argument by any stretch of the imagination that California should be able to handle and support a high-speed rail system.

I live in an area where what we have is old, and we struggle with problems of how to get it to a true high-speed system. You are building a new one, and my hope is that you can lead the way to show us how to improve our system.

One way or the other, America is going to have high-speed rail across this country. It will take time, it will cost money, and there will be mistakes made. There may or may not have been mistakes made here already, or there will be if there hasn't been already. That is normal. That is a normal part of the process. But I think that makes these oversight hearings even more important. Even if you are doing the best job possible, there are still differences of opinion, there are still people who make mistakes, things happen that you didn't anticipate, and therefore it is our responsibility to try our best to make sure that Federal tax dollars are spent as wisely as possible. That is why I wanted to come to California, and that is why I am looking forward to the testimony here today.

With that, I will yield back so we can hear from people who know what they are talking about.

Mr. DENHAM. Thank you, Mr. Capuano.

Let me first welcome our other Members here: three Californians, Ms. Lofgren, Mr. Huffman, Mr. LaMalfa; and the vice chair from the great State of Texas, Mr. Farenthold.

Our panel is with the Honorable Sarah Feinberg; Mr. Dan Richard; Mr. Jim Hartnett, Mr. Stuart Flashman; and Mr. Robbie Hunter.

I ask unanimous consent that our witnesses' full statements be included in the record.

Without objection, so ordered.

Since your written testimony has been made part of the record, the subcommittee will request that you limit your testimony to 5 minutes.

Ms. Feinberg, you may proceed. Thank you very much.

TESTIMONY OF HON. SARAH E. FEINBERG, ADMINISTRATOR, FEDERAL RAILROAD ADMINISTRATION; DAN RICHARD, CHAIRMAN OF THE BOARD, CALIFORNIA HIGH-SPEED RAIL AUTHORITY; JIM HARTNETT, EXECUTIVE DIRECTOR, CALTRAIN; STUART M. FLASHMAN, J.D., PH.D., ATTORNEY, LAW OFFICES OF STUART M. FLASHMAN; AND ROBBIE HUNTER, PRESIDENT, STATE BUILDING AND CONSTRUCTION TRADES COUNCIL OF CALIFORNIA

Ms. FEINBERG. Chairman Denham, Ranking Member Capuano, other Members who have joined us, thank you for inviting me to today's hearing.

Much attention has been paid to the urgent need for the United States to build a modern transportation system to keep up with our growing population, increased congestion, and more diverse economy. Congress rightfully recognized nearly 8 years ago that in order to achieve this goal, our transportation system must include more reliable, more frequent, and faster passenger rail service. Congress passed two landmark pieces of legislation that established FRA's High-Speed Rail Program, and then through the Recovery Act provided the seed money to build the system.

FRA and Congress conceived of a high-speed and intercity passenger rail program to be national in scope but led by the State in execution. With the launch of the program, there was immediate and significant interest. States submitted nearly 500 applications requesting more than $75 billion worth of projects, far exceeding

the funds Congress had made available. FRA eventually awarded $10 billion to nearly 150 rail projects, including $3.5 billion to California.

With California's growing population, the State was understandably focused on building out a high-speed rail system that would serve its growing communities, because 2 railroad tracks can carry as many travelers in 1 hour as 16 lanes of a congested freeway. As the chairman knows and as anyone who lives, works, or visits the bay area or the Los Angeles area knows, they can recount far too many nightmare stories about congestion on the roads and in the sky: vehicular and air traffic at all times of day, constant commuters, families and businesses, hours of time and resources they can spend otherwise.

The L.A. to San Francisco flight alone has become one of the busiest and most delay-prone air markets in the United States. One in every five flights is late by more than an hour. And the challenges of moving more people and goods in a safe and efficient way will only continue to grow. By 2050, California is predicted to be home to another 12 million people. To add capacity to California's transportation system, the California High-Speed Rail Authority is leveraging the majority of the $3.5 billion that FRA awarded to construct the first 119 miles of rail in California's Central Valley.

The Federal investment made in California's high-speed rail is significant, and FRA takes its obligations to protect the taxpayers' investment seriously. FRA closely monitors the California project, as we do with all grants. With all major and ambitious transportation projects, there have been and remain important challenges that demand continued attention.

Consistent with grants management and oversight best practices, FRA works closely with all of our grantees to ensure that taxpayer dollars are spent wisely and that contractual agreements are current and adhered to.

To be clear, and despite reporting to the contrary, ensuring that a project is meeting its obligations and amending contractual grant agreements is not only a due diligence requirement but it is also standard practice for any agency that oversees grants.

Last spring, the California High-Speed Rail Authority and FRA executed the Sixth Amendment to ensure that the contractual agreement that exists between the two entities accurately reflects the current project status. California High-Speed Rail Authority also requested FRA's approval of a $60 million working capital advance for right-of-way acquisitions needed to allow construction work to progress and remain on schedule.

A working capital advance is one of the approved payment methods allowed under the Federal Government's stringent grant payment rules. This tool is available to any grantee and can be used effectively for timely right-of-way acquisition on large infrastructure projects across the country. In fact, other agencies, like the Department of Health and Human Services and the Department of Homeland Security, also use the same method of payment.

Mr. Chairman, in closing, for centuries leaders in California and across the United States have fulfilled bold projects. Many of these projects haven't been easy or without challenges, but they are

worth the persistence and dedication because they are necessary to move our country forward. I believe this project is no different.

We continue to look forward to working with California, with Members of Congress, with your staff and your committee as we continue to make progress in bringing this project to completion. Thank you, and I look forward to your questions.

Mr. DENHAM. Thank you, Ms. Feinberg.

Mr. Richard, the floor is yours.

Mr. RICHARD. Thank you. Chairman Denham, Ranking Member Capuano, and other Members of this committee and the Congress, my name is Dan Richard. I am the chairman of the California High-Speed Rail Authority Board. I appreciate the opportunity to appear before you today to provide an update on the progress that California has made in developing the high-speed rail system.

The Federal Government, through actions by the Congress and the administration, has provided some $3.5 billion to commence design and construction of the system, funds that have proven vital to our initial efforts. Accordingly, oversight by the Congress through this committee is an important function to bolster public confidence that these funds are being well spent.

I am pleased also to share this panel with Administrator Feinberg of the Federal Railroad Administration. FRA has been a strong partner in this program, and we appreciate her leadership and that of her staff and her predecessors.

Mr. Chairman, I would like to summarize four key points in outlining our current status and progress.

First, the California high-speed Rail program is an essential element of the State's endeavor to build a sustainable economic future. The voters in 2008 approved what will ultimately be an 800-mile system with the first phase of 520 miles to connect Los Angeles, San Francisco, and the Central Valley. But what is more important here is that California is building much more than a high-speed train system. Our legislature in 2012 embarked on a $13 billion statewide rail modernization. High-speed rail is the backbone of that system, but that system extends to major improvements such as Caltrain electrification here on the San Francisco peninsula, improved Amtrak service, regional rail like Metrolink in Los Angeles, the ACE Train that is important in your district, Mr. Chairman, and much more.

All told, this rail modernization of California through statewide, regional and local systems will vault us into a more sustainable future and one that is also cheaper to build and maintain, much cheaper, in fact, than the cost of the equivalent mobility of new highways and airports required to sustain the 50 million people that we must serve by the middle of this decade—excuse me, by the middle of the century.

Second, high-speed rail construction in California is now underway. It is proceeding smoothly, and we are maintaining effective management and cost control of the program. We now have three sets of construction packages totaling $3 billion in progress across about 110 miles of the Central Valley. Hundreds of workers and scores of companies, including small business and disabled veteran businesses, are on the job.

But the indirect impacts have engaged thousands more already across the State. All of these construction contracts have come in under our engineer's estimates. In fact, the combined total, considering our low and high ranges, is that we have seen winning bids come in between $500 million and $1.7 billion less than we estimated these packages would cost us.

We have overcome startup problems like slower-than-expected right-of-way acquisition and higher costs for third-party contracts, but we are still well within our budget contingencies.

Third, our recent 2016 business plan marked a milestone in the development of the project. By emphasizing the completion of an initial operating segment from the Central Valley to the Silicon Valley, we laid out a plan that can be accomplished with available funds that are in hand or expected. Silicon Valley is the engine not only of California's economy but of the Nation's, and yet it faces severe limitations on housing and expansion. The Central Valley is historically an area of underinvestment. The prospect of connecting these areas of our State has generated enthusiasm in both regions. Significantly, based on more advanced engineering and experience to date, now our estimate for the total system completion has been reduced by some $6 billion.

My last point is that while we know this program has a controversial history and has had its share of hurdles, we are not only on track but I want to emphasize that we are absolutely fulfilling the purposes of the State bond act that launched this effort.

With respect, Mr. Chairman, I noticed that there was a statement that was included in the committee's notice of this hearing that said that the program no longer provides full high-speed rail service from Los Angeles to San Francisco. This is not correct. We are absolutely fulfilling the mandate of providing 200-mile-per-hour electrified service that is designed to achieve transit from L.A. to San Francisco in 2 hours and 40 minutes or less without an operating subsidy. There are no changes from that commitment.

As you know, we adopted the so-called blended system to share tracks with regional rail in urban areas like Caltrain, but that only constitutes about 15 percent of the track area, and this was suggested by one of your colleagues in the Congress and by local elected Representatives, and was recommended by an independent peer review group as something that could dramatically reduce costs while meeting the bond act requirements.

Unfortunately, this is one of many false narratives that have grown up around this program. I hope today's hearing will allow us to examine those issues and correct the record.

Mr. Chairman, thank you again for the honor of appearing before this committee. We look forward to your questions.

Mr. DENHAM. Thank you, Mr. Richard.

Mr. Hartnett, you are recognized for 5 minutes.

Mr. HARTNETT. Thank you very much, Mr. Chairman and Members. Good morning. Thank you for your attention to this issue and for inviting us to share a local perspective.

I am Jim Hartnett, the executive director of the Caltrain commuter rail system and the CEO of the San Mateo County Transit District. I am also a past member of the California High-Speed Rail Authority Board of Directors and a former mayor of Redwood City.

When voters approved Prop. 1A in 2008, it wasn't just about connecting the State with high-speed rail. It was also about improving transportation connectivity on existing systems. The measure included significant resources dedicated to upgrading local transportation services to feed the statewide network and to improve mobility options for surrounding communities.

Large-scale, visionary projects like high-speed rail can and should be planned and delivered in a way that prioritizes investments in local improvements while also making incremental but significant progress toward the long-term vision.

During my time on the California High-Speed Rail Authority Board, I worked with my colleagues to ensure that this approach would be embraced. The product of those efforts was SB 1029, which appropriated funding for high-speed rail construction in the Central Valley, but also directed over $1 billion for local and regional improvements on the bookends in southern California and the bay area. In our case, this State funding is being used to leverage over $1 billion in local, regional, and Federal funds to upgrade the Caltrain corridor and allow us to deliver more service at a time when our communities need it the most.

Caltrain is struggling to accommodate unprecedented regional growth. Two thousand sixteen marked our sixth consecutive year of record-setting ridership. As Highway 101 and 280 have become more and more congested, employers have turned to Caltrain as the preferred commute option between San Francisco and Silicon Valley. As a result, our peak-hour service is well over 100 percent capacity, with ridership on some trains exceeding 125 percent of available seats.

The Caltrain corridor is arguably the most economically productive area in the State. The communities served by our 51-mile railroad are responsible for 14 percent of the State's GDP, 20 percent of California tax revenue, and are the birthplace of over one-half of California patents.

However, the region cannot continue to thrive without equipping the 150-year-old rail corridor with a modernized transit system capable of accommodating current and future ridership demand.

Fortunately, with local, State and Federal help, Caltrain has been able to advance the Caltrain Modernization Program. The centerpiece of this program is the transformation of the corridor from its diesel fleet to a system that features high-performance electric trains capable of delivering cleaner, faster, and more frequent service to peninsula communities.

When complete, electrification of Caltrain will be able to serve more riders at more stations. As a result, 619,000 vehicle miles traveled will be eliminated every day and the system's emissions will be reduced by 97 percent, eliminating over 176,000 tons of CO2 annually.

Caltrain and the California High-Speed Rail Authority have worked with several local, regional and Federal partners to secure funding for the Caltrain Modernization Program as an early investment in the high-speed rail system. Six bay area funding partners have agreed to commit significant local funds in order to leverage over $700 million in high-speed rail and State funding, and these

investments have positioned the project to receive almost $650 million in Federal Transit Administration discretionary grant funds.

Thanks to these commitments, Caltrain was able to authorize contractors to begin design work on the project. The next steps will be construction of the project and the procurement of electric trains, work that will create over $2.5 billion in economic value, including almost 10,000 new jobs during construction.

Meanwhile, we are also collaborating with the California High-Speed Rail Authority as it begins the environmental process for additional improvements that will be needed to equip the corridor to accommodate high-speed rail service. When high-speed rail is extended north of San Jose, Caltrain and the California High-Speed Rail Authority will share the corridor and operate on a blended system to San Francisco. The planning and design of these improvements will be carefully considered to ensure that impacts on surrounding neighborhoods are minimized and benefits are realized.

Thank you very much, Mr. Chairman.

Mr. DENHAM. Thank you, Mr. Hartnett.

Mr. Flashman, you are recognized.

Mr. FLASHMAN. Thank you, Chairman Denham. Good morning, Chairman Denham, Mr. Capuano, and Congress Members. Thank you for the opportunity to testify today.

Let me start by saying that I have no conceptual problem with high-speed rail. High-speed rail systems in other countries have shown they can, if planned and implemented prudently, be cost-effective and improve transportation efficiency while reducing greenhouse gas emissions.

Here in California, however, too much has been promised and too little will be delivered. I will focus on legal issues affecting the California high-speed rail project's use of State funds and the associated risk to the Federal Treasury from the California High-Speed Rail Authority's, or CHSRA's, use of Federal grant funds for construction and other activities.

Before doing that, I want to comment briefly on CHSRA's current financial situation and why this issue is important. As my written testimony explains in more detail, CHSRA currently has only two sources of funds: $3.5 billion in Federal grant funds, and State funds, primarily Prop. 1A funds, plus a much smaller contribution from the greenhouse gas Cap and Trade auction proceeds.

Prop. 1A asked that CHSRA seek private funding, but no private entity has stepped forward to invest funds in the project to this point. There are good reasons for that. CHSRA has over $6 billion in appropriated funds, but restrictions on using Prop. 1A funds for construction prevent CHSRA from using those funds. Consequently, CHSRA current construction funding is limited to its Federal grants plus a small amount of Cap and Trade auction proceeds. In essence, CHSRA is like a steam engine with almost no coal left to shovel in its fire box. It may keep going for a while longer, but it will eventually run out of steam and stop cold.

The California Legislature, in writing Prop. 1A, was aware that voters were worried about the risk in approving more general obligation bonds that would eventually be on their shoulders. Consequently, it put into the measure what the California Court of Ap-

peals has called a financial straitjacket, intended to reassure voters that the funds would not be wasted. There are stringent procedural and substantive requirements on how and when CHSRA can use the bond funds.

While the courts have allowed the legislature to appropriate bond funds without fully complying with Prop. 1A, those same courts have made clear that before those funds can be used for construction, CHSRA will have to comply with Prop. 1A's requirements. With CHSRA's currently politically motivated design, that is virtually impossible.

Prop. 1A requires CHSRA to show it has available all the funds needed to complete construction of a usable segment that will be suitable and ready for high-speed rail operation. CHSRA optimistically estimates that its current usable segment from Wasco to San Jose will cost over $20 billion. At most, CHSRA has maybe $6 to $8 billion in available funding. Unless CHSRA can show where it has squirreled away over $10 billion, it cannot meet that requirement.

In addition, service on that segment must be able to run without a public operating subsidy. Even if you accept CHSRA's highly optimistic ridership estimates, its usable segment is very unlikely to be able to do so. Consequently, no Prop. 1A funds can be used to build that segment.

Even if CHSRA could meet these procedural requirements, Prop. 1A's substantive requirements would still block use of Prop. 1A funds. Prop. 1A requires that trains be able to travel from the Transbay Transit Center in San Francisco to Los Angeles Union Station in no more than 2 hours and 40 minutes. With the indirect route that CHSRA has chosen, making the trip in less than 3 hours is basically impossible. Nor can the current legislatively mandated blended system meet the required 30-minute travel time between San Francisco and San Jose.

Further, the blended system, which requires CHSRA and Caltrain to share the same tracks between San Jose and San Francisco, also precludes meeting Prop. 1A's 5-minute headway requirement.

As for using Cap and Trade funds, that system is currently under legal challenge. Even if it survives, the current funding is only $4.5 million this year, and Cap and Trade's authorization runs out in 2020. With the legislature having rejected its extension and indicating a preference for a revenue-neutral carbon tax where the collected funds would be rebated to businesses and the public, that would leave no proceeds to fund high-speed rail.

In short, despite its optimistic statements at this point, CHSRA has no viable financial way forward.

As I said at the start, I believe a prudently planned and executed high-speed rail system could be beneficial for California. Unfortunately, CHSRA has given no indication that it intends to rethink its current disastrous course, which will result in more litigation but no useful rail project.

Thank you.

Mr. DENHAM. Thank you, Mr. Flashman.

Mr. Hunter, you may proceed.

Mr. HUNTER. Good morning, Chairman Denham, Ranking Member Capuano, members of the subcommittee. I appreciate the opportunity to appear before you today to discuss the California high-speed rail construction program.

I am the president of the State Building and Construction Trades Council of California. I am an iron worker by trade and spent 27 years working in the field building skyscrapers and bridges throughout California. Our council represents in excess of 400,000 skilled and trained California construction workers, including 48,000 apprentices that have graduated or the equivalent from California high schools.

Each and every one of these workers work for private construction companies building our harbors, airports, water treatment plants, freeways, transit systems, dams, as well as the vast majority of commercial and residential projects throughout the State.

These contractors that we work for need a streamlined, highly trained, competent work force to compete, using the least amount of people, building projects in the shortest timeframe, done once, done right, under the lowest bid.

The workforce that we represent drives the economy of California. They set aside a portion of their hourly wage for their pension and medical benefits and even in retirement are not a burden to the State or the Federal Government.

I am very proud to report that at this very moment, several hundred of these workers, who are residents of the Central Valley, are on the job building the high-speed rail in the Central Valley. This is an area where, during the Great Recession, we have had unemployment in excess of 60 percent, and the Valley itself has been a traditionally—has had some of the highest unemployment statewide in the general population. Now these workers are building the high-speed rail system that will transform the Valley and all of California.

Of course, I am happy that these workers are earning a paycheck, supporting their families, and driving the economy. But I am also gratified that they are creating a third mode of transportation, something that California desperately needs right now and that will greatly benefit the people of the State of California for generations to come.

Furthermore, the project is being built efficiently and economically. The best value bids for the first construction packages have ranged from 13 to 45 percent below the engineer's estimated cost, resulting in savings of hundreds of millions of dollars so far.

Decades from now, I believe California will look back with gratitude at the vision of this generation's leaders, whose foresight resulted in a magnificent, efficient high-speed rail system, less congestion on our roads, airports, and a healthier environment. We simply cannot afford to not build this vitally important infrastructure project.

California's transportation system is already overtaxed, and our population will pass 50 million by mid-century. Doing nothing will ultimately cost far more than building this essential system today. High-speed rail is the only viable means of making sure our transportation infrastructure can meet our growing demand.

Continuing to build more and more freeways and airports would be more expensive, more environmentally damaging, and less efficient for moving millions of Californians up and down the State.

In fact, the nonpartisan Legislative Analyst's Office has reported that the project would, and I am quoting, "alleviate the need to build over 3,000 miles of freeway, and 5 airport runways and 90 new departure gates—at a cost of nearly $100 billion—that would otherwise be necessary to accommodate interstate travel by 2030."

By saving $100 billion, the project pays for itself. To remove any doubt, just look at the spectacular success of high-speed rail around the world. We have learned from places like Spain, France, China, Germany, Japan, and many other countries that high-speed rail is the more efficient and preferred mode of transportation between population centers between 100 and 500 miles. That is precisely the corridor California's high-speed rail will serve.

High-speed rail is working breathtakingly well everywhere else in the world. California needs its great benefits even more. As the 2008 ballot summary language points out, high-speed rail will provide long-distance commuters with a safe, convenient, affordable, clean and reliable alternative to driving and high gas prices. It will reduce traffic congestion on California's highways and at the State's airports. It will reduce California's dependence on foreign oil. It will reduce air pollution and global warming greenhouse gases. It will provide fast, time-saving connections between California's major population hubs. It will bring thousands of good jobs to working families across the State.

We cannot afford to fall behind the rest of the country, the rest of the world. Our State needs the economic, environmental, and quality-of-life benefits of a third mode of a clean, fast, mass transit system to meet the needs of our children and grandchildren just as generations before us paid for and built the infrastructure that has supported today's population and economy. We need to build this system.

I would say that we have built the infrastructure of California, the building trades, for over 130 years. We were criticized heavily on the Golden Gate Bridge. It was the first bridge to nowhere. The Hoover Dam——

Mr. DENHAM. I'll ask you to wrap up. We are a little over time already.

Mr. HUNTER. The Hoover Dam was a boondoggle that was going to bankrupt the country.

Thank you, sir.

Mr. DENHAM. Thank you, Mr. Hunter.

I would like to thank each of our witnesses for their testimony today.

There are a number of different questions here on the update and progress of this project. Our goal is to get in two rounds of questioning, so I would ask Members to keep their time allotment to 5 minutes, as well as our witnesses to answer any questions as succinctly as possible.

I am going to start off today's round here, mostly focused on the most recent changes.

As you and I had talked, Ms. Feinberg, on the last change, the fifth change to the agreement about the tapered match, I once

again talked about my concern about spending all Federal dollars first and then owing the State dollars. My concern with tapered match is it leaves California on the hook, and the only penalty or the only way to extract that money would be to hold up rail dollars, highway dollars, or even education or housing grants. So I still have that big concern about the last change to the grant agreement.

But specifically on this sixth change, when I had sent out my statement earlier in the year about this being a blank check, I know that you had taken some concern with that.

Actually, let me address this to Mr. Richard first. My concern is with this most recent change is that it is a blank check to spend money and get beyond the ARRA funding of 2017. This is being used for working capital. So my concern is that you could make a request at the end of 2017 to get beyond the original congressional mandate to allow you to spend money beyond that.

From the experts that we have talked to in the construction sector, a $2.6 million burn rate is a pretty high burn rate to be able to accomplish spending the $3.5 billion by the end of 2017. So the concern is that you get close to the 2017 deadline, you go back to FRA and you say we are going to need future dollars and we are putting the working capital in ahead of time. Mr. Richard?

Mr. RICHARD. Mr. Chairman, I can certainly understand that concern. Let me allay your concerns this way. First of all, the number we should be focused on is not $3.5 billion but $2.55 billion, because the remaining $980-some-million is fiscal year 2010 money that does not have any kind of statutory deadline for expenditure. So under the Stimulus Act, we have to spend $2.55 billion by September 2017. We are about 70 percent of the way through that right now. Between invoices we have been giving to Ms. Feinberg's agency and work that has been accrued but not yet invoiced, we are at $1.8 billion. The burn rate to accomplish the rest is less than the average burn rate that we have seen in the last 3 or 4 months. So we have no doubt that we are going to meet the ARRA deadline for the expenditure.

Let me just say with respect to your concern, the purpose of the working capital request was simply to get ahead of money for land acquisition. Land acquisition is the most fundamental piece of the construction. If we can't deliver the parcel, the contractor can't do the work. So that is what we are using it for, and basically I would just say to you what you want to do with the ARRA money is what the Congress intended, put people to work. Waiting until the last minute, it is just not the way the program is going right now.

We got off to a slow start on real estate acquisition. We want to make sure we don't fall behind on that again. The working capital helps us get the real estate land acquisition done. But this is all about people building things, and they are doing it right now, and the burn rate is such that we will accomplish the 2017 deadline.

Mr. DENHAM. So you can commit, then, that you will not request an advance payment for the ARRA funds in 2017 to keep you on the congressional deadline?

Mr. RICHARD. That—I will commit to that.

Mr. DENHAM. Thank you.

And, Ms. Feinberg, you would also commit that if there was such an advance request at the end of the 2017 deadline, that you would not approve such a request?

Ms. FEINBERG. Correct. We see no—we have no interest in going beyond the September 2017 deadline, and beyond that we don't think there will be a request for it.

Mr. DENHAM. Thank you.

Mr. Hartnett, the initial operating segment has changed. The blended approach is a somewhat new idea. The question that I received is primarily about safety in the community along your line. If the track is now electrified, with pedestrian traffic being the biggest issue of train accidents, do you expect this new electrification to change any safety concerns?

Mr. HARTNETT. I do not. We currently serve over 65,000 riders a day. Our safety record is good. The pedestrian safety issues are primarily with respect to trespassers on our line, and a number of the trespassers are intentionally there. That does create safety concerns, but we do work well to address that.

Mr. DENHAM. And I am not questioning your safety record. You guys have a good record. My concern is that these are now going to be hot tracks, and recognizing that we have pedestrians and trespassers in those areas, does that create a new challenge?

Mr. HARTNETT. It does not in the sense that—fortunately, it is not a third rail. You can walk on them. You can be on the tracks and not be subject to electrification. It is overhead wiring, which has a tremendous safety record. I have had the privilege of living off and on in Japan for 8 years using their electrified services, and you can do it in a very safe manner with electrification itself, not enhancing any safety risks.

Mr. DENHAM. So the speed of the train, if the train can actually get to 200, 220 miles an hour, does that create any safety concerns to the communities?

Mr. HARTNETT. It won't be going at that rate of speed through the peninsula. So the speed is not going to affect the safety. The trains for us in particular are going to be quicker in the sense that, because they are electrified, they can slow down quicker and speed up quicker, which actually makes it safer overall in terms of our service, and I think in the blended service as well.

Mr. DENHAM. So if the train is not going to hit those high speeds in San Jose to San Francisco, how do we expect to hit 2 hours and 40 minutes or 2 hours and 30 minutes?

Mr. HARTNETT. That would be a design question. I think Mr. Richard can respond to that.

Mr. DENHAM. Mr. Richard?

Mr. RICHARD. Thank you, Mr. Chairman. The train was never going to go at those speeds in the urban areas, even before the blended service. In fact, I don't know if my staff brought it, but one of the things I would like to submit to the committee is a page from our 2008 business plan which was before anybody even talked about blended service, when they were only talking about a single high-speed rail separate service. That map shows that in the urban areas, the speeds were going to be around 120 miles an hour. This is because of the geometry. You have to have the curves to go at those high speeds. You are really taking a lot of land in urban

areas. It is very expensive. You see it in other countries. As you come into the cities, the trains go slower.

One of the great things about the blended service—and this is one of the reasons the independent peer review group recommended to the legislature that it support the blended service—was the notion that you could maintain essentially the same speeds in the urban areas that we would have with separate tracks but at a cost reduction of about $20 billion between north and south. That is why we decided that we would be able to do that.

It may have some impact on capacity. Mr. Flashman raised that question. We can talk about it. But it really has no impact on the speeds. I just want to say to you for the record, right now our engineers are telling us that the current design would get you from Los Angeles to San Francisco with the blended service in about 2 hours and 33 minutes. We are about 7 minutes ahead. So that has never been a concern that we have had.

Finally, just on your earlier point, part of the electrification program will be the installation of intrusion detection devices and other advanced mechanisms to try to minimize or eliminate unauthorized entry into the corridor there.

Mr. DENHAM. And what does that mean?

Mr. RICHARD. Fencing, electronic intrusion detection, things like that.

Mr. DENHAM. So like some type of sensor that would allow you to know whether or not trespassers went on there, on the walls of the sides of the——

Mr. RICHARD. Right. I think it is sensors and fencing, but before I get myself to a place where I don't know what I am talking about, perhaps I can supplement that answer for the record for the committee.

Mr. DENHAM. Certainly. It is more out of curiosity for the future of what those residents are going to be looking at, if you could provide that to the committee.

Mr. RICHARD. Yes, sir.

Mr. DENHAM. We would appreciate it.

Mr. Hartnett, does the Caltrain go 120 miles an hour today?

Mr. HARTNETT. It does not.

Mr. DENHAM. What is the current speed?

Mr. HARTNETT. We are generally at 79 miles per hour.

Mr. DENHAM. And on a blended track, you have an opportunity to have Caltrain on the same tracks as California high-speed rail would. Do you anticipate an increase in speed for Caltrain? What would it be?

Mr. HARTNETT. We are not going to increase our speed with the Peninsula Corridor Electrification Project. We are going to increase our quickness. With the diesel fleet, it takes a very long time to slow down and stop at a station, and a very long time to get out of the station and move up. So while going at the same top speeds, we will be able to get into the stations quicker and get out of them quicker. So we will be able to, for example, a ride that would currently take an hour, San Francisco to San Jose, if we use the same stops, it could be 45 minutes instead of an hour. So we will have choices as to go quicker up and down the line or to stop at more stations, both of which will enhance our capacity. We have modeled

increasing Caltrain's speed to 110 mph in a blended system, but the final decision on speed has not been made.

Mr. DENHAM. Thank you.

And finally, the last question, Mr. Richard. We talked about the initial operating segment, the initial construction segment. Mr. Flashman had said Wasco. Is it Wasco, Shafter, somewhere in-between? And where is the initial construction segment? Can you define both ends of the initial construction segment?

Mr. RICHARD. The initial construction segment, which is the subject of our grant agreement with the Federal Government, is—I think it is 130 miles from Madera down to the Bakersfield area, north of Bakersfield. We stopped short of going into Bakersfield so we could work with that city to look at an additional alignment. So it is somewhere in the area of Wasco. At the moment I am forgetting the precise road that it stops at. That is the Central Valley segment, which will be the spine of the system.

When we made the change in the business plan, we said we need to connect the Central Valley to the Silicon Valley. Let's build no further south right now than we are building, which is why it seems a little odd to be stopping kind of in the middle of an almond orchard and turn around and connect to San Jose and San Francisco.

But what we also said in our business plan was that it really makes sense to enhance the service into San Francisco and to reach down to Bakersfield. That is an additional $2.9 billion, and we will be coming to the Congress and talking about the benefit of that connection because it generates $4.7 billion of additional ridership revenue.

Mr. DENHAM. Thank you, sir.

Mr. RICHARD. I am sorry. I did not mean to go on.

Mr. DENHAM. I did not mean to cut you off. I want to hear much more about this, but I have gone over my time.

Mr. RICHARD. And I apologize, but I am very happy to work with you on this because we think it will be an important enhancement.

Mr. DENHAM. Thank you.

Mr. Capuano?

Mr. CAPUANO. I am going to defer to my California hosts and let them go first.

Mr. DENHAM. Mr. Huffman, you are recognized for 5 minutes.

Mr. HUFFMAN. Appreciate that. Thank you.

Thank you, Mr. Chairman, for having this hearing, and thanks to our terrific witnesses for joining us.

I especially want to welcome you, Administrator Feinberg. It seems like just yesterday I was touring in Marin and Sonoma County on the Smart Rail project, which is an exciting project where our communities are bringing back commuter rail. Thanks to the support of your agency and others, that is going to be reality in just a couple of more months. It will open on day one as one of the safest passenger rail systems in the United States, again with your support for Positive Train Control, so thank you very much.

I appreciate that Mr. Hunter in his remarks reminded us that there was another really big, transformative, and yet controversial project nearby. It happens to be the defining southern feature of my congressional district, the Golden Gate Bridge. What people

sometimes don't appreciate, because it is such an iconic piece of infrastructure now that is taken for granted, is that it was very controversial in its time. Over 2,000 lawsuits were filed to stop this project in the 1930s. It went through several different designs. They were all very controversial. There were huge cost overruns. Yet, if you went to my district today, or I would say anyplace else in California, and asked people if you would like to go backward, they would probably laugh at you. It has been a huge success.

So when we talk about this project and the promise of high-speed rail, we should talk about cost, we should talk about budgets and plans and the challenges this project faces. But we should also think about the cost of inaction and the benefits it brings.

So, Mr. Richard, I am especially grateful to have the conversation with you at this point in the project's history because in a prior life as a State legislator on the budget committee, I do remember lots of conversations with your predecessor where I had lost confidence in the ability of California to realize the promise and the vision of high-speed rail. The project was in complete drift, and yet today construction is underway. Construction contracts are coming in under budget, and it does seem that through innovation and creativity we are poised to actually make this happen in California, and it is in no small part due to your leadership, so thank you for that.

That doesn't mean your critics have gone away, so I want to ask you about a couple of points that Mr. Flashman has very eloquently laid out in his remarks. Specifically—and these are points that we have heard for some time now as criticisms of the project—the assertion that financially you can't get there from here because of limitations and constraints on funding in Prop. 1A and the Federal funding, that when you add it all up, the dollars just don't connect and you can't get there from here.

And the second one is the impossibility of achieving the speed and travel times that have been promised, I believe, between Wasco and San Jose.

So I want to give you a chance to speak directly to those claims that have been levied, and also to the extent you can because, again, these are not new claims—they have been part of litigation—what the courts have said as well about these matters.

Mr. RICHARD. Thank you, Congressman. Thank you for your kind remark there.

There are several things I would say. First of all, when the voters in 2008 went to the ballot, the legislature put before them a bond measure that said to them we want to get started on high-speed rail. In fact, the opening line was it is the intent of the people of California to build a high-speed rail system. But that bond measure, by its terms, made it clear that the money was not all in hand. There was $9 billion. By law, it required to be matched, so it could only be half of what could be spent. They talked about Federal money. There was no Federal program. There was no stimulus program. It hadn't been created yet.

They talked about saved money. There was no other saved money. They talked about the private sector. The private sector has historically done this at certain points in the project and in history

around the world, but basically the people were told this is a down payment, we are going to get started.

Sometimes people say to me, well, you are admitting that you don't have all the money in hand to build the entire system right now. That is true. In Ms. Lofgren's district, they are building BART to San Jose. I helped start that project 15 years ago. They are still finding pieces of the money to finish it. That is just the nature of transportation projects. We build them in pieces.

The legislature in its wisdom, and the people in their wisdom, said we understand you are going to build this in segments. We want them to be usable segments. We don't want our money wasted on something that isn't going to have value. So the courts have basically found that we could do that.

I am sorry, I don't mean to go over on this, but we have the dollars in hand between the bond funding, the Federal money, and the Cap and Trade money we have been allocated, to build an initial operating segment from the Central Valley to the Silicon Valley. Are there some uncertainties about that? There are. Do we think they are being resolved? We think they are being resolved favorably, and we have confidence we can build it, and the independent peer review group told the legislature that they think this is a financially responsible and constrained plan.

Let me just stop there. I don't want to go on and on, but I think I addressed the question of before.

Mr. HUFFMAN. Thank you, Mr. Richard.

Mr. DENHAM. Mr. Farenthold, you are recognized for 5 minutes.

Mr. FARENTHOLD. Thank you very much.

Administrator Feinberg, I would like to start with you. There is a high-speed rail project entirely privately funded going on in Texas, my home State, right now. They are looking at going from Houston to Dallas at an estimated cost of about $10 billion for the project cost.

I understand things are more expensive in California. I just paid $3 for a Dr. Pepper here. But we are looking at money six times more expensive for a rail that isn't even twice as long. Do you have any thoughts on the cost differential? And then I will pass that along to Mr. Richard as well, if he wants to. I will allow you to pump that to Mr. Richard if you would like to.

Ms. FEINBERG. Well, they are very different. The reality is they are just very different projects. I will let Mr. Richard weigh in on this, but there are more stations and more stops in California and a much longer distance that will be traveled. They are just fundamentally different projects. But we have really enjoyed working with the folks in Texas who are working on this project, and we have very high hopes for success because I think that segment between those two cities is a perfect example of where—a significant game changer for that economy and for people's lives there.

Mr. FARENTHOLD. As a steward of the taxpayer dollars, I am concerned about the cost.

Mr. Richard, if you would like to weigh in on that for a second, it would be appreciated.

Mr. RICHARD. Congressman, this is a very complex State both geo-physically as well as economically. I had the chance one time to drive from Los Angeles up to Fresno and back to the bay area,

and I thought I wish everybody could do that drive with me and then ask the question why this costs so much.

Over mountains, through ravines, through built-up urban areas, it is just a very complex topography. We have earthquake issues that, fortunately, you don't have to deal with in Texas. I spent a lot of time in Texas in my youth. I worked at NASA as a kid. I think you are pretty flat down there in Texas compared to some of the area here. That is one of the big drivers.

Mr. FARENTHOLD. Let's talk about land acquisition.

Mr. RICHARD. Yes, sir.

Mr. FARENTHOLD. Where are you on that? Do you have the entire—do you have contracts for the entire route of the land? How much of that are you going to be able to get through negotiating with the landowners? What are we looking at with respect to exercising eminent domain?

Mr. RICHARD. Well, I stated, Congressman, that I felt that if we could get all of the land that we need without ever having to resort to eminent domain, that that should be our policy and that should be our approach. Unfortunately, that is not the reality. Part of the reason it wasn't the reality is that when we had litigation and so forth, we actually had lawyers running around telling people don't settle with these guys because we think the project is going to go away, and that was really unfortunate. We ended up having to go to eminent domain in some of those situations.

But we have about 1,300 parcels that we need to get, I think 1,100 parcels for the first 130 miles. I think we are about 700-some-odd into that.

Mr. FARENTHOLD. So barely halfway.

Mr. RICHARD. That is why the working capital request that we could accelerate that.

Mr. FARENTHOLD. That is more of a rural segment. You sound like you are cutting through some urban areas like San Francisco.

Mr. RICHARD. But there are some important urban areas there. In Fresno we moved an entire food processing operation, but most of it is rural. You are right.

Mr. FARENTHOLD. And how much of this is going to be elevated versus at grade?

Mr. RICHARD. We are going to do as much at grade as possible. One of the reasons that some of the contract bids came in below our estimates were that their engineers were able to suggest areas of at grade. I don't have the specifics in my head, but I would be happy to supply that to you and the committee.

Mr. FARENTHOLD. That is fine. I would point out the entire Texas system is above grade. It is either in a viaduct type of arrangement or on a berm. I wonder how much going over people's property might not be worth looking at.

Finally, I only have 30 seconds left, and I apologize for not being an expert on California geography. I can understand there being a lot of people who might want to go from L.A. to San Francisco. You have a fair amount of options once you get there of how to get around the city, on the BART or an Uber lift. But from Madera to Bakersfield, you get there, what do you do when you get there, and what do you think of how that is going to affect your ridership de-

mand to fund your ongoing operating over numerous years until you get the endpoints built?

Mr. RICHARD. I am tempted to refer you to the House Majority Leader about Bakersfield.

Mr. FARENTHOLD. I do not want to get crossways. I have been to Bakersfield, so I know there is not a lot of—there is no subway in Bakersfield.

Mr. RICHARD. I think the main point, very quickly, Congressman, is that the legislature and the people in California deliberately said we want you to connect areas of the State. We are not building a straight line from San Francisco to L.A. We are going through the Central Valley. It is an area that has been left behind.

Just very quickly, three of the five most impoverished areas in the United States are in the Central Valley in California, despite the great wealth that we have there. Twenty-one percent of the kids have asthma. It has three of the five worst air quality districts. And if you want to get from Fresno to Los Angeles by air, it is $700. It is an area that has been disconnected from the rest of the State.

The excitement around our opportunity to connect the Central Valley and Silicon Valley, which is bursting at the seams, and to move not only housing but investment and manufacturing facilities there is enormous, and it gives diversity to the Central Valley. So there is a real strong economic reason why this program is structured the way it is, and I think we are going to see a tremendous uplift in the economy of the Central Valley that is going to benefit people far and wide.

Mr. FARENTHOLD. Thank you, Mr. Richard.

Mr. DENHAM. Ms. Lofgren?

Ms. LOFGREN. Thank you. Thank you, Mr. Chairman, for allowing me to participate in this hearing.

It has already been said that it is not just what we are building but what would happen if we didn't build this, and I think it is important to keep that in mind. California is going to have a lot of growth. It needs to be accommodated. To try to meet that growth with airports and roads is just not viable.

I know also, before I ever ran for Congress, I was in local government, and I remember building big projects. It is easy to criticize, harder to build. When we built Highway 85 down in Santa Clara County, the section from 101 to 280 was done and it took decades to get 280 to the southern 101. So you do these in pieces, and that is just the way big construction projects go.

I just want to mention the 2016 draft business plan that was approved, because I think it is a knockout achievement. Not only does it reduce the cost for the initial segment, it is easier to get through that mountain range than the southern mountain range, and it will be so important economically not only for Silicon Valley and my district but I think also in the Central Valley.

In San Jose, traffic congestion is through the roof, and affordable housing is a big challenge. The median price of a house in the bay area in June was $751,000. The median price of a house in Santa Clara County last month was $1.045 million. So we are bursting at the seams, and the capacity to connect the Central Valley and Silicon Valley is going to help Silicon Valley survive, and it is also

going to provide tremendous job opportunities for people who live in the Central Valley. It will take an hour to get from Merced to San Jose. My chief of staff lives in San Jose and it takes her longer to get from parts of San Jose to downtown.

So this is really going to be an economic lift-up for our State, and it is worth remembering that most of the job growth in the State of California actually occurred in Silicon Valley. We got plenty of jobs, and we are not shy about wanting them to go to people in other regions.

So, as someone said, there is high poverty in the Central Valley. I chair the California Democratic Delegation. Our delegation is very supportive of this high-speed rail project. We have cochairs of the Congressional High-Speed Rail Caucus, Jim Costa, John Larson and myself. So we are really very pleased with what is happening here.

Now, I guess we have a second round of questions coming up, but one of the things that I wanted to ask—and I think it is great that Ms. Feinberg is here. Thank you for coming once again. Mr. Denham, the chairman, asked for the California High-Speed Rail Authority's agreement with the FRA to be reviewed by the GAO last year, and it is my understanding that they have concluded that the California High-Speed Rail Authority has complied with its agreement with the FRA. Do you have any disagreement with that GAO conclusion?

Ms. FEINBERG. I don't. In fact, the GAO has looked into California high-speed rail several times. I think it is now the most investigated and most audited project in U.S. history. I don't know if that is something to be proud of or not, but I think it is worth being proud of that they have succeeded and the GAO has never found a significant issue.

Ms. LOFGREN. So it is your testimony, then, that not only is the California High-Speed Rail Authority currently in compliance but they have been in compliance.

Ms. FEINBERG. Yes.

Ms. LOFGREN. Thank you very much.

You know, I was interested, Mr. Richard and Mr. Hartnett—this is really an issue for up the peninsula, not in my district, but the intrusion on blended rail. We know that there has been an epidemic of suicides among teenagers, high school students, in the mid-peninsula area. I was pleased to hear that you are going to have some intrusion devices. Is it your belief that with the ability to stop these trains faster and these intrusion technologies, that we might have a better chance of saving these young lives?

Mr. HARTNETT. Together with fencing, there will be additional fencing that will help for those who have a spur of the moment desire, so the fencing will be just a natural barrier. I can't speak to the high-speed rail intrusion devices, but there is experimentation with a variety of methods to detect folks going on the tracks, including video feeds.

But in that area of youth suicide, we have worked very closely with the school districts and the communities on the broader issues, which we have to continue to do because the ultimate solution isn't going to come from fencing and devices.

Ms. LOFGREN. No. It will come from the children themselves.

Mr. HARTNETT. So that is something we continue to work on.

Ms. LOFGREN. Thank you.

I see my time has expired, Mr. Chairman.

Mr. DENHAM. Thank you, Ms. Lofgren.

Mr. LaMalfa?

Mr. LAMALFA. Thank you, Mr. Chairman and panelists. I appreciate it.

What the voters voted for in 2008 was a $33 billion project, a high-speed train, one train, not switching trains, from S.F. to L.A. A year later the number was adjusted up to approximately $42 or $43 billion, adjusted beyond what the voters saw, beyond what the voters approved. And then finally, after much agitating from the State legislature, we had a hearing in November of 2011 where the admission was that there wasn't going to be 1 million jobs created by high-speed rail but something called 1 million job years, and that the cost was no longer just $33 or $43 billion, it was $98.5 billion, triple the price.

Now, if I am seeking to, let's say, enclose my garage and build a bathroom inside, I might get a bid for $33,000, not $33 million, and they tell me the price a few months later is $43,000, and then when the trucks show up and they start construction they say it is $98,500—you can see where I am moving the decimal points here—I am going to say that is a breach of contract. I am going to tell you to take a flying leap, especially since the completion date initially was 2020 and now it is 2033. So I don't get my garage enclosed for an additional double or more of the time.

This is the recent contract with the voters of California. It is why I carried two bills as a new State senator, SB–22, to say don't spend any money until you actually have a plan. You don't even have a plan yet on how you are going to go through Bakersfield, how you are going to go through the Tehachapis, where the funding will come from. You are still $55 billion short of the change projection, down to $68 billion after the scramble, from $98.5 up to $118 scared everybody for a blended system.

So this is indeed something that the taxpayers should be looking at and saying we have been taken to the cleaners on this. That is why my second bill was SB–95 saying put it back on the ballot and ask the voters once again what they think of something that is triple the price, that isn't meeting the mark anywhere near the time, nor are the so-called environmental benefits of this, of the green project, will be saving C02. I almost laughed when I heard one of the solutions during construction would be that they are going to plant trees to offset the concrete and the construction equipment being used in there, since we are worried about C02 these days.

So, Mr. Flashman, I want to drill down with you on that for a moment here. Of the different projects—there are green projects, there are Cap and Trade replacement projects—what are the ones that are the most eligible, the highest priority, the most bang for the buck? Briefly, please.

Mr. FLASHMAN. I am not sure I can name any one specific project, but the aim of AB–32, which is what set up the whole idea of doing a Cap and Trade project, was to get greenhouse gas emissions down to 1990 levels by 2020.

Mr. LAMALFA. Will high-speed rail do anything to help that by 2020 or 20-anything?

Mr. FLASHMAN. Well, at some point maybe it will. It certainly can't by 2020. It is still going to be under construction in 2020. It won't actually start operating—at this point they are estimating 2025.

Mr. LAMALFA. So should high-speed rail be pulling these greenhouse gas option funds, then?

Mr. FLASHMAN. Well, I am handling the lawsuit which basically is saying it should not.

Mr. LAMALFA. OK. So if we are looking at the benefit, perhaps, of high-speed rail in this and greenhouse gas and the option, the most recent one was somewhere around $8 million I think was the auction generation——

Mr. FLASHMAN. That is correct.

Mr. LAMALFA. The projections I have is that for the $55 billion funding gap, since there is no Federal money coming into it, there is no private money coming into it, it would take about maybe over 6,000 years to pay off the funding gap with the high-speed rail new-found money—excuse me—coming from the greenhouse gas options.

Mr. FLASHMAN. Obviously, if it is going at the current rate, it is not going to be very much help at all. I am sure the Governor would like to see Cap and Trade extended. He is talking about sending it at least to 2030, maybe to 2050. If they could extend it to 2050, they hope they could securitize it.

Mr. LAMALFA. But at this rate of options, it is not going to pull a whole lot. Thank you.

Mr. Hartnett, currently you don't have 120-mile-an-hour at-grade trains running with your Caltrain system?

Mr. HARTNETT. That is correct.

Mr. LAMALFA. But you expect you will have 120-mile-an-hour at-grade crossing with high-speed rail with Caltrain?

Mr. HARTNETT. Well, high-speed rail will determine the speed, but we have tested out in our conceptual analysis the blended system that they can operate at 110 mph——

Mr. LAMALFA. How can you fence for an area for people to not have access to 120-mile-an-hour trains, especially when you come to an at-grade crossing where cars are, people are, pedestrians are? How do you fence the whole area for a rail going across a highway or road or street?

Mr. HARTNETT. Well, fencing doesn't go across the grade separations.

Mr. LAMALFA. At-grade I am saying.

Mr. HARTNETT. And it doesn't go across the at-grade crossings. We have gates, and there would be an opportunity to establish quad gates that will be down well before the——

Mr. LAMALFA. How easy is it for a pedestrian to pass between those gates and run out on the track?

Mr. HARTNETT. It is not easy at all to go through the quad gates.

Mr. LAMALFA. For a pedestrian?

Mr. HARTNETT. Correct.

Mr. LAMALFA. It doesn't take a limbo champion to go underneath one of those gates.

Mr. HARTNETT. The quad gates are set up to provide maximum security for——

Mr. LAMALFA. For automobiles and motorcycles.

Mr. HARTNETT. Not just for automobiles and motorcycles; for pedestrians.

Mr. LAMALFA. So a pedestrian will not be able to penetrate the tracks easily at an at-grade crossing?

Mr. HARTNETT. They will not be able to do so easily. Like with anything else, if a pedestrian wants to come off a platform or otherwise get onto the tracks, it will be possible to do.

Mr. LAMALFA. Sorry, the time. I would love to see an illustration of how a pedestrian cannot go around those gates at an at-grade crossing.

Thank you, Mr. Chairman.

Mr. DENHAM. And we would ask you to submit any plans or drawings you might have to the committee.

Mr. Capuano, you are recognized for 5 minutes.

Mr. CAPUANO. Thank you, Mr. Chairman.

I want to thank the panel for your thoughtful comments.

Before I begin, I would also like to submit a letter for the record from Representative Eshoo, who couldn't be with us today, who is in support of the project.

Mr. DENHAM. Without objection.

[The letter from Congresswoman Anna G. Eshoo follows:]

Congress of the United States
House of Representatives
Washington, D.C. 20515

Anna G. Eshoo
Eighteenth District
California

August 29, 2016

The Honorable Jeff Denham, Chairman
Subcommittee on Railroads, Pipelines, & Hazardous Materials
House Committee on Transportation & Infrastructure
2251 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Michael E. Capuano, Ranking Member
Subcommittee on Railroads, Pipelines, & Hazardous Materials
House Committee on Transportation & Infrastructure
2251 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Denham and Ranking Member Capuano,

Thank you for the opportunity to submit a statement for today's hearing regarding California High-Speed Rail. Because you chose to hold this field hearing in downtown San Francisco, I believe it is important for the Subcommittee to understand the important partnership between the California High-Speed Rail Authority and Caltrain, our local commuter rail which serves thousands of San Francisco residents daily and is the spine of our transportation system throughout San Mateo County and Silicon Valley.

Passenger rail service has operated on the San Francisco to San Jose corridor for over 150 years, but without a substantial upgrade, Caltrain will not be able to cope with rapidly increasing demand. Today, our highways are choked with traffic and Caltrain operates well over 100% seated capacity. Ridership has more than doubled in the last decade and it is expected to double again over the next two decades, to more than 120,000 riders daily.

This traffic and overcrowding of our trains is a legitimate threat to the continued economic growth of Silicon Valley and the greater San Francisco Bay Area. Hundreds of our nation's most innovative companies and startups rely on the Peninsula transportation system to get their employees to work. In a remarkable shift over the last decade, approximately 40 percent of Caltrain riders now travel southbound from San Francisco to Silicon Valley, on a commuter rail that was originally intended to primarily serve northbound commuters.

In order to meet this increasing demand and keep the Bay Area economy booming, Caltrain is moving forward with plans to electrify the San Francisco to San Jose corridor. High-performance electric trains will operate cleaner, faster, and more frequently than current diesel models. By 2040, the project is expected to improve daily air quality on the corridor by over 97 percent, reduce annual greenhouse gases by over 176,000 metric tons, and take 619,000 daily vehicle miles off the region's roadways. In this effort, the California High-Speed Rail Authority is a critical partner because electrification of Caltrain will allow the corridor to accommodate future high-speed trains.

In 2011, I joined with State Senator Joe Simitian and Assemblyman Rich Gordon to offer an alternative to the four-track proposal by the High-Speed Rail Authority which would have been prohibitively expensive and would have torn up communities on the Peninsula. Our plan, known as the "blended system," will upgrade the existing Caltrain corridor, allowing high-speed rail trains to operate on it at one-third the cost of the original plan.

Five years after we first proposed the blended system, this important project is moving forward. Contracts for the Caltrain electrification project were awarded earlier this month and construction is expected to begin early next year. This places the project on schedule for completion in 2020. The project enjoys support and funding from the three counties it travels through; the Metropolitan Transportation Commission (MTC); the State of California; and the Administration.

Silicon Valley is one of our country's top economic engines and its continued growth depends on the ability of local infrastructure to accommodate it. The partnership between Caltrain and High-Speed Rail will provide substantial regional benefits while enabling future integration of high-speed trains at a lower cost than what was initially proposed.

As you conduct your oversight hearing today in San Francisco, I encourage the Subcommittee to consider the important role that High-Speed Rail will play in ensuring that the Bay Area economy can continue to grow.

Most gratefully,

Anna G. Eshoo
Member of Congress

Mr. CAPUANO. Thank you.

I want to stay away from the local issues, to be perfectly honest, as far as safety and getting access to rail. Good luck. You couldn't keep me off the train tracks when I was a kid. You are not going to be able to keep people off who want to get on. You do the best you can, God bless you, but that is not a big issue to me because I know you are trying the best you can, but you are not going to do it.

I am just curious, though, and I really don't know the geography of California, but on the presumption that—I am not even going to use San Francisco—San Jose is a job center to a certain extent, San Francisco being at the end of the line, once this high-speed rail is built, let's assume it can do everything you want it to do, go the speed you want, have the stops you have, give me an idea of where would I be if I got off the train after about 45 minutes on the train, approximately?

Mr. RICHARD. Starting in San Jose?

Mr. CAPUANO. Yes. I assume you will have a stop at San Jose.

Mr. RICHARD. Yes, we are.

Mr. CAPUANO. Approximately.

Mr. RICHARD. I would say 55 minutes from San Jose you will be in Fresno in a car on your way to Yosemite.

Mr. CAPUANO. OK, and I really don't know. Has anybody considered the suburbs of Fresno as a bedroom community to San Jose? Did anybody consider that today?

Mr. RICHARD. Actually, today, it is not considered today, but I will tell you that there are people in San Jose that——

Mr. CAPUANO. The reason I ask is because I am sure that some people do that commute.

Mr. RICHARD. Yes.

Mr. CAPUANO. The average person is more than willing, and I am sure they do it here like they do everywhere else, to commute give-or-take an hour back and forth to work. The whole idea of high-speed rail is, yes, to connect San Francisco and L.A., that is all well and good. But for me, it is more about providing affordable housing for people who want to work, because you cannot afford it here. You might be able to afford it 45 minutes south of San Jose, wherever it might be, in a town now where property values are half that, or whatever they might be. It is no different here than it is on the east coast.

So for me, I actually think connections to suburban communities is of more value to this rail system than San Francisco to L.A. To be honest, 2 hours and 40 minutes, good luck. I just took the train from Boston to Philly, and we allegedly hit 150 miles an hour a few times, and maybe we did, maybe we didn't, but we hit every stop on time. It was a great ride. I am glad I did it, but it was about 5 hours. I think you will be able to do better, but you don't have the same problems we have with curving track and the like. We have other problems that would take a lot of money to address.

But either way, affordable housing for workers is one of the biggest problems we have in Boston, and keeping our talented young people to fuel our economy is hard because they can't afford housing. It is kind of simple. And honestly, you are not getting many young people either because they can't afford to come here. That

being the case, anything you can do, we can do, this country can do to maintain the economic centers of our country is a good thing.

Now, whether this particular project is it, I will leave that to the people of California to decide, because though there is a lot of Federal money here, it is mostly State money, and it is your prerogative.

We had a project that is similar. By the way, this is not the most investigated project in the history of the country. The Big Dig is.

[Laughter.]

Mr. CAPUANO. But let me tell you, criticize it all you want, it works. It did exactly what it said it was going to do. It didn't solve all of our problems, but it solved the problem it was meant to address. It cost a lot of money, and more than 60 percent of it was State money. And, by the way, when we ran over, here is how we funded it. We borrowed against future Federal highway funds. Every year for about 10 years after that, we took several hundred million dollars of Federal money—that we would have otherwise used to build other things—to pay off the debt. So the concept of advanced payments is not new. Call it a different name. It is a choice by the people of California as to what is the most important thing for them, which is why I won't get into whether this is or isn't the best use for that. That is up to you.

We thought it was the best use for the Big Dig. Now, as a former mayor at the time, my city got stuck and had nothing for a while. In the long run, over time, it was worth it. But I say that more as a lesson to be learned. This is not the first big project, it is not even the most recent big project. It is not the project with all the problems that you ever had.

Land acquisition? I come from the most densely populated area of the country. Good luck with land acquisition. I can't imagine that there is a farmer—and by the way, Mr. Flashman, that is how you say it, "fahmer"——

[Laughter.]

Mr. CAPUANO [continuing]. In the Central Valley that would be happy to part with his land any more than my triple decker in Dorchester is happy to part with theirs. So, yes, land acquisition is a difficult thing and is absolutely necessary.

Whether you get this project done or not on the timescale you want, good luck. I support it in general. I will do what I can to help, within reason. I am fighting for those same Federal dollars for my Northeast Corridor, and I want a high-speed rail from Boston to Springfield to do all that stuff we just talked about.

I want to warn everybody here, when it comes to Federal dollars, the pie is shrinking. The struggle for those dollars is growing. Every city wants a subway now. It used to be a handful. Now we all do. Everybody wants a commuter rail system. Only used to be a handful. High-speed rail is the next big thing. We used to have one, not really high-speed but kind of a medium-speed rail, called Amtrak in the Northeast Corridor, from Boston to Washington, the only rail corridor in the country that makes money, the only one. Why? Density of population. And it is not people going from Boston to DC, Boston to New York, New York to Philly, Philly to DC, DC to Baltimore. It is those middle stops that make the system.

And I say all that not because you don't know it, but I think it is important for people to understand that when we talk about these massive projects, it is not just one big massive project we are talking about, but we are actually talking about a series of smaller projects that are tethered together. You are not going to make money from San Francisco to L.A., but you might make money from San Francisco to San Jose, San Jose to Fresno, Fresno to whatever bedroom community it might be. Again, I don't know the geography of California that well.

I would warn people to think of it in those terms. Again, to do it or not do it. That is your decision, because every dollar we spend in the Federal Government, you have to match 3 or 4 to 1. Federal dollars are not going to save you, but Federal dollars will help.

With that, I really don't have too many questions. I just want to make sure that I understood this project for what it was. I did have one question, but I will wait for the second round because I have already gone over. Thank you, Mr. Chairman. I usually don't pay attention to the clock.

Mr. DENHAM. You don't usually pay attention, but I have to say that normally you are way under the guidelines, so a lot of discretion here. You are always way too kind with giving your time to other Members.

That concludes our first round, and we do have time for a second round. I would like to start off the same way that I said in many of my conversations with Mr. Capuano as we have looked at projects around the country, as well as I have stated in every hearing that we have had now: I support high-speed rail. We are going to have high-speed rail in this country. We have a higher speed rail in Florida. I have a great promise on the Texas private effort. I think at some point we have to get high-speed rail in the Northeast Corridor with the huge ridership that we have there.

My concern here is that there is a commitment that has been made to the voters. It was a $33 billion project. And at some point we have to bring some trust back into Government. We have an obligation for Government to do what it said it was going to do. And I get it, there were cost overruns in the Bay Bridge, there were cost overruns in Golden Gate Bridge. This was an issue passed by voters, and I think we have to have priorities in this State, and we have to have some trust in Government. We need to do what we say we are going to do or it should go back before the voters.

This was started in the Central Valley. It was written into Prop. 1A. Far too often, initiatives are passed and the investment gets done in the bay area, the investment gets done in L.A., and yes, the high unemployment continues to go on in the Central Valley because we don't put the money into infrastructure in the Central Valley.

So this was done there, putting the Central Valley in this first, but the concern is that all of the money is going to be spent and you could be stuck in a field with somewhere between Shafter and Wasco and somewhere further down the road in Madera, and we are out of money. That is the last thing we want in the Central Valley. We don't want to have something that has no riders, that has no train, that has no future investment, only to wait for decades hoping that maybe we can take some money from the North-

east Corridor and hold you guys up, or we can take money somewhere else, from another State, to get this project moving along.

So this has more to do with transparency and accountability than I think any of us, Republican or Democrat, on whether we want more transportation in this State or in this country.

Let me now jump to the issue of jobs. Labor in my district has continuously asked me, on a variety of different projects, where are the local jobs? So, Mr. Richard, before this hearing started we had talked about some of the jobs that have started in 2015 and now this year. I would like for you to provide for this committee, and I will follow up with a written request, but specifically where those jobs are.

And to Mr. Hunter, the question has been with PLAs on a number of different projects in our area, labor in our area has questioned whether or not it has been a local job. So a PLA will be put in place by the letter of the law. The contract is granted, only to find out that all of the labor has been brought in from out of State or out of the area and living in a hotel room under an address in the Central Valley, showing Central Valley jobs. The people in my district still don't get those jobs.

So first if you could comment on that, and Mr. Richard, you don't need to comment. I would just like a followup just to let us know where those jobs are and who is taking them.

Mr. Hunter, you mentioned Billy Powell. The IBEW was the very union that asked me specifically about French camp and the PLAs, the future PLAs there and whether or not those would be local jobs or whether or not, like high-speed rail, was their response, would we have out-of-the-area jobs.

Mr. HUNTER. Measure our L.A. County $40 billion half-cent sales tax for a transit system because we had none. Everybody wanted the local people in there. They wanted no tax on their sales. We are not getting it from the State or the Federal Government. We negotiated an agreement for the percentage of workers to be in this from the L.A. County. Just like this agreement, we negotiated preference for kids in the foster care system, for veterans, and for people who were on social services.

These contractors are private contractors. They are going to use the least amount of people. They are going to do it in the least amount of time. We have no seniority. They want the most streamlined workforce. We negotiated at the end of this agreement a preference for zip codes from the Central Valley. I myself have been up and down from the Central Valley——

Mr. DENHAM. But specifically your members had expressed concern that while you enter a zip code, you could be living in a hotel room or be a new resident to the area using a local zip code. I am almost out of time.

Mr. HUNTER. I am aware of none of that. We looked pretty closely. The people who are on the books live in the zip codes of the area, Merced and Fresno.

Mr. DENHAM. Thank you. I look forward to a followup. I would just like to point out for the record that a big part of our, in the Central Valley, our high unemployment is due to the shortage of water. Temperance Flat, a $2.5 billion project to provide over 3,000 jobs for members of yours. Shasta Dam, $1.3 billion, our biggest

bang for the buck in California, 1,400 jobs. Over 4,000 jobs could have been done if we had waited for 7 years on this project. As well, BART expansion, 1,400 jobs; ACE expansion in my area, 1,000 jobs; less than $2 billion for those two projects. Caltrain's Alameda County, 235 jobs. We are talking over 4,000 jobs just in rail projects that are on the books right now that could have all been done during this same time period. Those could be jobs that—again, this is not an issue of labor. It is an issue of jobs today.

Mr. Capuano?

[No response.]

Mr. DENHAM. Mr. Huffman, you are recognized for 5 minutes.

Mr. HUFFMAN. Thank you.

Mr. Richard, I want to go back to you about the financing issue. I know that one of the criticisms of your plans and the Governor's involvement in the plans has been the reliance on credit from the Cap and Trade system under AB–32. A lot of folks in the months leading up to this hearing have claimed that that is an unreliable source of revenue, maybe even an unlawful source of revenue, and we know that the fossil fuel industry has been putting on a full court press to allow the very authority from which it derives, AB–32, to simply expire and not be renewed.

But it seems to me that with developments in Sacramento over the past week, we are having a bit of a different conversation now. The fossil fuel industry lost and we are moving forward not just with the continuation of AB–32 authority but actually we are doubling down on climate leadership, raising the bar even higher and declining to join the fossil fuel industry on the road backward to perdition.

So let me ask you now as we sit here today, what is your assessment of the reliability and the stability of that greenhouse gas policy framework and the Cap and Trade revenues that are a critical part of your long-term plans?

Mr. RICHARD. First of all, as you know as one of the leading environmental voices in the California Legislature before you became one of the leading ones in the U.S. Congress, California has led the globe in terms of action on climate change, and our Governor and our legislature have just recommitted to that last week with an extension of the basic law, which was Assembly Bill 32. Now Senate Bill 32 by the same author has, as you said, essentially tightened down on the limits. Instead of meeting the 1990 limits by 2020, we are now talking about 40 percent below the 1990 limits by 2030.

Industry, and I think even the oil industry, knows that the best way to get there is through market mechanisms and not just rely on command and control. I have had this conversation with many of my conservative Republican friends. You want cap and trade to continue because you do not want to have everything be simply coming out of the error sources as a command that you will, smokestack by smokestack, reduce these emissions.

So I am very confident that with the action of the legislature last week and the bill signed by the Governor, I think it will now turn the dialogue back to the extension of the market mechanism of cap and trade as a way to help our businesses and industry meet these standards, which we will meet one way or another. But the market mechanism provides a very effective tool for them.

We have already gotten about a half-a-billion dollars from the Cap and Trade Program this year, even before the recent auctions that were, in fact, disappointing. But I am not an expert on this and this is not an official State pronouncement, but the things that I read from people are that the uncertainty around these issues was one of the big contributors to people holding back from participating in these markets. So let's see what happens going forward.

But today sitting here, I can say to you I have great confidence Cap and Trade will be extended, and I think it will be a successful program, as it has been.

Mr. HUFFMAN. And in the time that I have remaining, since we haven't covered this specifically yet, could you just speak to the greenhouse gas reduction benefits that should accrue to the State of California if your vision of this project is realized?

Mr. RICHARD. Very quickly, one of the interesting things about California is we are the exact opposite of the rest of the country. The rest of the country, electric generation emissions are about 43, 45 percent of carbon emissions. In California, they are 22 percent. The rest of the country, transportation is in the 20-percent contributor. In California, it is in the 40s.

The only way we are going to meet our climate goals for Cap and Trade is basically to address the transportation sector, and that means the electrification of the transportation sector, not just electric vehicles, in which we lead the Nation, but regional and statewide rail systems. And what we are doing with high-speed rail—and again, I go back to the point that this is not just about high-speed trains. It is our total investment in the electrification of State, regional, and local rail systems. It is going to put an enormous dent in carbon emissions.

High-speed rail has been the glue. We have been the last funding source for the Caltrain electrification, the last funding source for BART car rehabilitation, the last funding source for the L.A. Metro run-through tracks. So we are basically on the forefront of electrifying California's transportation system. That is what will help us achieve our carbon goals.

Mr. HUFFMAN. Thank you, and I yield back.

Mr. DENHAM. Thank you, Mr. Huffman.

Mr. Farenthold?

Mr. FARENTHOLD. Thank you very much.

Mr. Richard, I want to go back a little bit to the eminent domain and the funding question for a second. You said you have been able to negotiate purchases of roughly half of the land that you will need. Do you have an estimate of what the—are the cost estimates still in line, or because you are going to have to use eminent domain, are the cost estimates going to go up?

I ask this question because recently in the district that I represent we had a relatively large bridge project that ran through an economically disadvantaged community in the district, and part of the negotiation for this and avoiding potential lawsuits was that despite the eminent domain requirement that we pay fair market value for the property that was taken, some of these homes were below, well below the cost of what they could be replaced at.

Do you foresee running into this, and has this been included in some of your cost calculations? So rather than just purchasing their

home, an expense associated with relocating, long-term rent subsidies or subsidies of purchasing a more expensive home because there are no homes at that cost range.

Mr. RICHARD. Congressman, you raise a really critically important point. While I don't know all the different mechanisms we use, and I will be happy to supplement the record with that, the essential point is the right one. It has been a real tragedy that, as we have gone out to acquire people's property and we are limited legally to paying fair market value, many parts of the State have not recovered yet in terms of the downturn in the housing markets that occurred, and taking somebody's property at today's fair market value, which is less than what it was in 2008, seems manifestly unfair.

I can tell you that we have done everything we can to try to be aggressive in using tools to be fair with people, and we have also done things, particularly with our farmers, where what we have said to them is we will be quite liberal in looking at the impact on your property if we are only taking a portion of it. So, for example, we have——

Mr. FARENTHOLD. I understand the issues, and I want to ask you a couple of other questions.

Mr. RICHARD. I am sorry, sir.

Mr. FARENTHOLD. It just runs the cost of these things up, and it is very tough.

Mr. RICHARD. It is.

Mr. FARENTHOLD. I want to ask Mr. Hartnett a question real quick. We talked a little bit about sharing track with the high-speed rail and your commuter rail. I worry about this. I am not sure you—maybe you did it in your testimony. Are we going to drop the high-speed rail down to your standard commuter rail speeds, or are we going to have different speeds of trains on these tracks?

Mr. HARTNETT. They will be able to go faster than our trains, but we also have built into the blended system approach passing tracks. So certainly they are not stopping at all our stations. It is designated to be——

Mr. FARENTHOLD. Because to me this seems like a scheduling nightmare. I mean, I am not a regular train rider, if you don't count the Washington Metro, but they are never on time.

Mr. HARTNETT. Actually, we don't foresee it as a problem. We have already studied it. There is further scheduling work that will be done. But with our ability to schedule down even without passing tracks, the blended system can be accommodated. There will be passing tracks, so that will enhance the ability——

Mr. FARENTHOLD. I am going to reserve the right to remain skeptical of that. We will see, and I am just going to shake my head because I expect you will be coming back to Uncle Sam for some more money.

If you will allow me, Mr. Chairman, I want to digress for my last minute of questioning since I have Administrator Feinberg here. I just wanted to ask her if the Texas high-speed rail project that we are talking about between Houston and Dallas is currently going through some environmental studies. Can you give me an update on the project and how those studies are coming in the last 30 seconds I have here?

Ms. FEINBERG. I will be happy to. The last time I spoke to you, I believe that the draft environmental work should be done by the end of 2016. I believe it is the fall of 2016. It will be in the coming months. I believe that is the latest report we have on this, as well.

Mr. FARENTHOLD. All right. Would you please keep me posted if you run into any hiccups?

Ms. FEINBERG. Be happy to.

Mr. FARENTHOLD. Thank you. And I will yield back my last 3 seconds.

Mr. DENHAM. Thank you, Mr. Farenthold.

Ms. Lofgren?

Ms. LOFGREN. Thanks very much. I think this hearing has been enormously helpful, not only hearing from the witnesses but hearing from my colleagues about some of the things of concern to them.

You know, there is a lot of construction going on in Santa Clara County for transportation right now per your comments, Mr. Chairman, on BART and ACE. We are building BART right now. We had the Secretary of Transportation out last week. The station is almost done in San Jose, and now we are going to the ballot in November with a proposal for county voters to tax themselves, renew their sales tax to do the extension down to the Dearborn station. Obviously, the voters have to decide, but it is polling at a very high rate. People are used to paying for what they get. The ACE train is about to be expanded, and then with high-speed rail coming in, we are going to have a whole system that will really help people get to work. The transportation system right now is at gridlock, and it is really a drag on economic development, in addition to being an annoyance.

Mr. Hunter, it was so good hearing from you that the men and women who are in the building trades build this country, build this State, and they are building these systems. We want to make sure they keep working on not just these transit projects but other infrastructure projects. I have heard the comment about off-street storage versus rail. We need both. There is growing consensus that it is not a partisan issue, that there is going to be a need for off-street storage. There is not a fight about that. There are issues we need to work through on where it is, but I noticed the San Luis Reservoir is almost empty. So it is not as if there is an immediate need. We have a terrible drought right now.

I want to ask you, Mr. Richard, you said you are going to fill in later with the jobs that are underway, but I would love to get, if you could off the top of your head, an outline of who is in the work, what has happened so far in the construction, who will be put to work, and where.

Mr. RICHARD. Well, there are hundreds and hundreds of people who are directly involved in the construction right now. We have seven construction sites in the Central Valley of the viaducts, which are the long lead-time items. But beyond that, for example, the columns, the concrete that was made for the Tuolumne Street overcrossing was made in Lathrop, California. So people in that community, which is in the Central Valley, are working in a factory to make those pre-cast things that drive down to Fresno.

The other thing that I think is really important here is I am proud that my colleagues on the California High-Speed Rail Authority Board have set up a 30-percent set-aside for small business. Right now, we have 276 small businesses working on the project. We have a 10-percent set-aside for disadvantaged businesses. We have 94 of those on the project. We have a 3-percent set-aside for disabled veteran businesses. We have 46 of those disabled veteran-owned businesses working on the project.

Ms. LOFGREN. Not 46 vets but 46 businesses?

Mr. RICHARD. Businesses. And I can just tell you one businessman who is a disabled American veteran, fought for this country, runs a business that does environmental remediation. He has expanded his workforce, including hiring people from the CalWORKs program who were homeless, unemployed, who are now working. One of them bought his first home ever. There are some really wonderful stories about the economic impacts here.

Ms. LOFGREN. Let me ask you this. The chairman sketched a scenario that no one would find suitable, which is we build this to Madera and then that is the end of it. What is your answer to that scenario? Is that something we need to fear in your judgment?

Mr. RICHARD. Well, when I was listening to the chairman say that I thought to myself, I don't want my name, I don't want the Governor's name associated with a piece of track in the Central Valley that doesn't connect to the rest of the State. So none of us want to see that.

Mr. DENHAM. Nor do I, for the record.

Mr. RICHARD. Mr. Chairman, that was very clear. But I will just say this, to sort of take the extreme position on it. Right now what we are building in the Central Valley, if you just looked at that—and I don't—but if you just looked at that, we are taking out 55 at-grade crossings in the Central Valley right now with this $6 billion construction program. We are creating a passenger-only track system that will relieve pressure on our freight system because the Central Valley has the fifth most traveled Amtrak corridor in the United States. I have talked to major agribusiness people down there who can't get freight capacity. So there is a lot we are doing right now that will have immediate benefits in the Central Valley, but I believe we will be connecting it.

Ms. LOFGREN. I will close with this, Mr. Chairman. I represent the Silicon Valley. I think it is essential that we connect the Central Valley and the Silicon Valley. But my husband grew up in Bakersfield. When I hear people say, well, instead of going from nowhere to nowhere, I always think the people who live in the Central Valley think they are somewhere, and they are a part of our State's population.

So I yield back and I thank you again for inviting me here today.

Mr. DENHAM. Thank you, Ms. Lofgren.

Mr. LaMalfa?

Mr. LAMALFA. Thank you, Mr. Chairman.

For $100 billion, we can do a lot of things. That is truly what this will cost at the end. You can build 20 dams, as was mentioned earlier, or possibly 3,000 miles of infrastructure. I think that was the figure reported. Think of all those jobs. Mr. Hunter's colleagues, if they had all that activity instead of what we are talking

about here, because we haven't established yet what the true cost of this rail is going to be, as I thought 6 years ago legislatively.

Mr. Richard, I would still like to know after the fact, after the voters narrowly approved the measure, there seemed to be a new idea to go ahead and drill through the Tehachapis instead of some alternative route. Do we have any idea what this is going to cost, what tunneling through the Tehachapis will be?

Mr. RICHARD. We do, Congressman. If I could just make two quick points.

Mr. LAMALFA. I am short on time, so——

Mr. RICHARD. Yes. On the southern leg from the Central Valley to Los Angeles, that is an estimated $30 billion leg.

Mr. LAMALFA. OK. So is this reflected in the initial 2008 plan the voters saw?

Mr. RICHARD. No, but——

Mr. LAMALFA. So we had $33 billion, plus $30 billion. So we are at $66 billion right there.

Mr. RICHARD. Sir, it is an apples to oranges comparison because the numbers we used are fully inflated over the life of the project numbers. That is different than a single point number.

But my main point to you is I wasn't here in 2008. I came in in 2011. The Governor told us to tell the truth to the people about what it would cost. We stood up and we told them that. I wasn't here for the earlier time. Today——

Mr. LAMALFA. It doesn't matter who was here because you said something about a commitment to the program working as it is, a commitment to a true high-speed rail train.

Mr. RICHARD. That is right.

Mr. LAMALFA. And that would be one that runs from S.F. to L.A., and makes it in 2 hours and 40 minutes.

Mr. RICHARD. That is right, and right now that looks like it will cost $64 billion over its life, fully inflated. That number, if it were——

Mr. LAMALFA. Including the drilling through the Tehachapis.

Mr. RICHARD. Yes, sir.

Mr. LAMALFA. You can do it for that original $30 billion that wasn't included in the original plan.

Mr. RICHARD. I don't think I understand or accept the second part of your question, but I am saying that for the $64 billion fully inflated cost, we will build you a system from San Francisco to Los Angeles, including going through the Tehachapis.

Mr. LAMALFA. I don't see how those numbers can possibly come in on that. But that said, right now, again, we can identify about $13.5 billion, plus what you are pulling in from the Cap and Trade, which by the time SB–32 finishes putting a noose around whatever petroleum products are drilled in California industries—the industries are leaving in droves—you are not going to tap a whole lot, even in a good year for Cap and Trade. Half-a-billion dollars, I hate to project how many years that half-a-billion dollars it would take to raise $55 billion or $58 billion or $100 billion.

So, sir, where is the money going to come from? There is no private-sector money. The Federal Government isn't in a mood to do this since we already have a $19.5 trillion national debt, and we

have other priorities. Where will this additional $55 billion come from? Because I don't see it forthcoming from anywhere.

Mr. RICHARD. Well, it is a longer conversation than we have today, but the private-sector money is going to be a very robust part of this, and it will equal about a third of the contribution——

Mr. LAMALFA. There are taxes, but they are not California in the private sector.

Mr. RICHARD. I am trying to do this as quickly as I can. The private sector has told us—we are not able to offer any kind of a subsidy. That means the private sector needs to see the first leg operating before they will come in. Our estimates are that there will be about $20 billion of net present value of private-sector contribution——

Mr. LAMALFA. Could we meet them, please, at another meeting?

Mr. RICHARD. Yes, sir.

Mr. LAMALFA. All right. As Mr. Capuano was talking about, the system is successful in the Northeast Corridor. I have ridden that. I like it, you know? But it makes sense in a dense urban area, that Boston to Washington area, with lots of stops. You have to have lots of stops where people get on and off. It isn't truly high-speed anymore when you are stopping a lot. California can't do that because if you are stopping in Wasco and places like that, you are not high-speed rail anymore. So this is a project that isn't nearly the same as the Acela in the Northeast Corridor. It can't make money when you are stopping. It can't fulfill the mandate that the voters voted for, for true high-speed rail.

I was told one time that if one train ran north to south at full speed without stopping, that would fulfill a high-speed rail system. The rest is going to be commuter lines stopping in Hanford and Shafter, even in the Bakersfield area, although without Buck Owens and Merle Haggard around anymore, so there is less reason to stop in Bakersfield.

That said, I don't see how this can be successful, sir. How do you see this as being successful? And lastly, what will the price of the ticket be these days since it cannot be subsidized?

Mr. RICHARD. I will say this very quickly, Congressman. In our business plan, what we use for our revenue models, if we had the system in place today we believe it would have to compete with the airlines. So we priced the ticket at 85 percent of a discounted airfare between L.A. and San Francisco, roughly about $83.

On your other question, it is a longer conversation, but I will say this, and I say this to you as a person who I know is a conservative Republican: We are building this system to be operated by the private sector. The Government would put in the first money, but it is the private sector that would bring their genius, their innovation, their efficiency to operate it. They are telling us they want the chance to do that. To do that, they know they have to compete with the airlines and they have to provide a service that would make money.

The Acela is not true high-speed rail, but it throws off operating cash. Every high-speed rail system in the world, once it is built, throws off positive operating cash. That is why the private sector wants to come in and operate this system, and they will be able to operate it successfully. We really believe that, and all our models

and all our numbers—and we have the former vice chair of Bank of America on our board who has looked at all this and says this will operate profitably when we get it done.

It is a longer conversation. I welcome the opportunity, Mr. LaMalfa, to have it with you.

Mr. LAMALFA. You made my point right to Amtrak, which I am heartily supportive of, and it still requires the input of Federal dollars to keep it——

Mr. RICHARD. All but the Acela.

Mr. LAMALFA [continuing]. The Northeast——

Mr. RICHARD. That is right.

Mr. LAMALFA. But the rest of it, it doesn't.

Mr. DENHAM. I think this will require a longer debate.

Mr. LAMALFA. Thank you, Mr. Chairman.

Mr. DENHAM. Mr. Capuano?

Mr. CAPUANO. I would like to yield a few minutes to my colleague, Ms. Lofgren.

Ms. LOFGREN. I just wanted to mention that in terms of the subsidy, we don't know precisely but the tech companies, they have the Google bus, the Yahoo bus, the Genentech. I saw them coming off here on 280. In talking with the technology sector in Silicon Valley, they fully expect that they will be part of financing their employees on the system, and it would actually cost them less than what they are paying to get their employees to work now.

I thank the gentleman for yielding.

Mr. CAPUANO. I guess I would just like to start out by asking can anybody here imagine what would have happened to this country, the last time we had a major deficit which actually was greater than the deficit we have today, no matter how you measure it, if a conservative Republican President had said that because of our deficit, we are not building the Interstate Highway System? Dwight Eisenhower said we need to invest in our future. We had just spent every penny we had in war, on World War II, but we knew we had to invest. I can't imagine what this country would be like.

I am not going to say whether this project is the best way to invest in our future, or building dams, or something else. That is an issue for the people of California. But to fail to invest in our future, regardless of the economic situation, is shortsighted and stupid, no matter how you look at it. If this is the way you want to invest in it, good for you.

I do want to ask a question about the blended system. That is a new term to me. I want to make sure I understand it. That, to me, sounds like Amtrak. Am I hearing that correctly?

Mr. RICHARD. You are.

Mr. CAPUANO. OK. That is not a new system. The question I have is do you have the ability to separate this track in the future? Because, Mr. Hartnett, I know what you are saying, and I accept that you can time these trains right. We do it when we have to do it. But one of the biggest problems we have in the Northeast Corridor is shared track. It doesn't mean we don't do it. We do it. But we are doing everything we can now, and spending a lot of the money, to separate that track.

So I am just curious, as you build this, is there the ability at a later time to separate the track if and when the system proves viable?

Mr. HARTNETT. I think the way the system is designed is to share our right-of-way and it is to be built substantially within the right-of-way. In order to increase the number of trains, there are passing track opportunities. While passing tracks can be built, it enables us to share the remainder of the track more efficiently because of the passing track. So I think that is an integral element of the future.

Mr. CAPUANO. I get that. I am looking 50 years down the road or something. And the reason I am asking is because I am personally involved with two projects in my own area where we are trying everything we can to separate track. Some of it is subway and rail, some of it is rail and rail, some of it is Amtrak. It would help us greatly—again, I am not saying don't do the project because you can't do it, but I am hoping that you are thinking long term.

I guess the other question I have, and again it goes back to a personal opinion, as you build up these stations, there has to be one. You have to start somewhere. You are not going to build them all the same day. You are not going to open them up the same day. Is there priority being given to the areas taking local or regional leadership in allowing for smart growth?

I say that because if you are going to build a stop in the middle of nowhere, or you are going to build a stop in the middle of a community that allows for more residential development and more parking opportunities so you can actually get on and off the train, obviously I would argue to build in the latter. The communities that want to fight it, I guarantee you they will be back 20 years later saying we didn't mean it, but that is a different issue. We can jump over them and move to the guys that want to do it.

I am just curious. Are you doing that, or are you just kind of going full steam ahead?

Mr. RICHARD. Yes, sir. Very quickly. And by the way, I grew up in the DC area, so I am very familiar with Georgetown and the Metro and the communities that said no and the communities that didn't.

This is a particular passion of mine. This is how we really make the system work for everybody and meet our environmental objectives, is we have to look at transit and land use. I had the transit land-use committee of my board. We are looking at developing sustainability and connectivity and density standards around the stations. We absolutely need to do that and build these stations the right way.

Mr. CAPUANO. Thank you. I yield back.

Mr. DENHAM. I know better than to cut off the ranking member. We work very, very closely together. We have a trip here ahead of us.

Let me first start by thanking all of the Members for not only expressing their views but for keeping us on time today. And I want to thank each of our witnesses today for taking time out of your schedules to be here with us today. A lot of information, but I would say the most important information that we usually get out

of each of these hearings is the questions that we have to follow up afterwards.

Ms. Feinberg, I specifically want to thank you and all of the work that you have done to keep our rail systems safe across the country. We have made some big accomplishments this year with implementing PTC, Positive Train Control, as well as the new tank car rules, working together to make sure that the crude by rail that is moving throughout our communities is much safer. I think one of the most important issues is alerting and training our first responders, letting them know not only what is coming through our communities but making sure they have the training to address any catastrophe that we may see.

So I just want to thank you for your ongoing relationship and communication that we continue to have. I look forward to working with you in September in Washington, DC.

And Mr. Richard as well, we have communicated well. Early on we had a number of hearings. I don't expect to have another oversight hearing for some time, but you certainly had previous leadership that ran things a different way. We have had a great relationship and having a discussion about some of these, but we have not always agreed on our approach. But you have been very accessible, and I hope to address a number of the transparency issues. So we would follow up with some questions that we still have outstanding from this committee.

As well, I want to thank each of our other panelists. You each have different concerns, as we have different concerns, and your testimony today has been very helpful.

I just have one last thing that I want to touch on. We have an election ahead of us. There will be a new administration, and we still have $2.9 billion for the initial operating segment, which you say you need to have completed before we can have private investment.

So first of all, on the initial operating segment, regardless of who the next President is, it sounds like both candidates are making positive statements about infrastructure investments. What do you need? What do you anticipate going back to the Federal Government for on the initial operating segment?

Mr. RICHARD. Just to be clear, Mr. Chairman, our business plan says that even without that $2.9 billion, we can open an initial operating segment. What we are saying to the Federal Government is we are going to put all this money in at the State level, but if you help us with this piece, it will really enhance it, enhance the value, and I can follow up with you on that.

But I wanted to be clear, we don't need the Federal dollars to open the initial operating segment beyond what we have already received from the Congress and the administration, but we think we are ready to have a good conversation with you about the costs and benefits there.

Mr. DENHAM. And the initial operating segment you are defining as——

Mr. RICHARD. Well, I am defining it south of Fresno or north of Bakersfield into San Jose, with more limited service to San Francisco. We can enhance service to San Francisco and reach down to Bakersfield with this additional support.

Mr. DENHAM. And the phase 1 of this project, do you anticipate Federal tax dollars, and do you have an idea of what that Federal request would be as well?

Mr. RICHARD. I would just say this, Mr. Chairman. Right now, if we got no more Federal money and we were able to build this, the Federal contribution to California's high-speed rail system would be 5 percent. I would submit to you that that is a far lower percentage of Federal participation of any major transportation project in this Nation. Without giving you a specific number, I would like to work with the Congress. Once we establish that we are on track and we are doing this in the right way, to have a more intelligent conversation, not just about grant money but about things that you can also do to help us accelerate private-sector investment.

Mr. DENHAM. Thank you.

Thank you. Again, I want to thank all of our Members here today, as well as our witnesses.

I am going to ask unanimous consent that the record of today's hearing remain open until such time as our witnesses have supplied answers to any questions that may be submitted to them in writing; and unanimous consent that the record remain open for 15 days for any additional comments and information submitted by Members or witnesses to be included in the record of today's hearing.

Without objection, so ordered.

I would also like to thank again Ms. Pelosi for inviting us or having us in her beautiful city and her great district and allowing us to have this hearing here today.

If no other Members have anything to add, the subcommittee stands adjourned.

[Whereupon, at 11:04 a.m., the subcommittee was adjourned.]

WRITTEN STATEMENT OF SARAH E. FEINBERG
ADMINISTRATOR
FEDERAL RAILROAD ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION

Before the
Committee on Transportation and Infrastructure,
Subcommittee on Railroads, Pipelines, and Hazardous Materials
United States House of Representatives

Field Hearing on the Continued Oversight of California High Speed Rail

August 29, 2016

Chairman Denham, Ranking Member Capuano, and Members of the Subcommittee: thank you for inviting me to today's field hearing on California High-Speed Rail.

Over recent years, much attention has been paid to the urgent need for the United States to modernize its transportation system in order to move our country forward in a mobile, knowledge-based economy. Congress rightfully recognized that to achieve this goal, our transportation system must include more reliable, frequent, and faster intercity passenger rail service when it passed two landmark pieces of legislation: the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) and the American Recovery and Reinvestment Act of 2009 (ARRA or Recovery Act).

PRIIA established the foundation for FRA's High-Speed and Intercity Passenger Rail (HSIPR) Program. The Recovery Act provided $8 billion in seed money to begin building this stronger passenger rail system while also jump-starting the country's economic recovery from the Great Recession. A year later, Congress provided another $2.5 billion for the HSIPR Program in its Fiscal Year (FY) 2010 appropriations bill.[1]

High-Performance Rail

FRA built the High-Speed and Intercity Passenger Rail Program based on a national vision to be executed by states, similar to how the federal government built the Interstate Highway System more than a half-century ago. The HSIPR Program gave states the ability to seek funding for projects that best reflect the needs and characteristics of their individual markets.

Thirty-nine states, the District of Columbia, and Amtrak submitted nearly 500 applications to FRA that requested more than $75 billion worth of projects – far exceeding the $10.1 billion available. FRA awarded the $10.1 billion to nearly 150 projects, including $3.5 billion to the

[1] In April 2011, Congress rescinded $400 million from this total.

California High-Speed Rail Authority (CHSRA) for its effort to build its California High-Speed Rail System between San Francisco and Los Angeles.[2]

Driving Factors for High-Speed Rail in California

With California's growing population, the state understandably acted to build a modern, high-speed rail system that it can grow with and that will serve the state well into the future. The following few points underscore why this high-speed rail project is important to both California and the country:

- California is the world's sixth largest economy, with 12 percent of the nation's population and 13 percent of the Gross Domestic Product (GDP). California's success is critical to the nation's economic vitality; [3, 4]

- California's roads and airports are among the most congested in the country. Los Angeles-to-San Francisco is the busiest and most delay-prone short-haul air market in the U.S., with approximately one of every five flights late by an hour; and

- Directly related to the congestion problem, California has very serious air quality issues. According to the American Lung Association, six of the ten cities with the worst air quality are in California, four in the Central Valley (Bakersfield, Visalia-Porterville-Hanford, Fresno-Madera, and Modesto-Merced).[5]

The challenge of moving more people and goods in a safe, efficient and environmentally sustainable way will only continue to grow. During the last five years alone, California gained nearly 1.7 million people—nearly the population of my home state of West Virginia.[6] And by 2050, California is expected to have 50 million residents.[7] This growth is equivalent to adding the entire population of Ohio to California's current population.

Without high-speed rail, a study found that "California would have to add between 2,300 and 3,000 miles of highway lanes, approximately four to five new airport runways, and between 90 to 115 airport gates."[8]

High-speed rail will add a significant amount of transportation capacity to the state's current, congested system and help alleviate the pressure on California's runways and highways. This, in

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[2] An additional $400 million was awarded to the Transbay Joint Powers Authority for the Transbay Transit Center, which will serve as the northern terminus of the California HSR system.

[3] http://www.bloomberg.com/politics/articles/2016-06-14/california-overtakes-france-to-become-sixth-largest-economy.

[4] http://www.lao.ca.gov/reports/2013/calfacts/calfacts_010213.aspx.

[5] American Lung Association, "State of the Air 2016" report measures ozone and particle pollution across the United States 2012-2014. http://www.lung.org/our-initiatives/healthy-air/sota/air-quality-facts

[6] California Department of Finance, "E-4 Population Estimates for Cities, Counties, and the State, 2011-2016 with 2010 Census Benchmark," May 2016.

[7] http://www.ppic.org/main/publication_show.asp?i=259.

[8] UCLA School of Law and UC Berkley School of Law, "A High Speed Foundation," August 2013. https://www.law.berkeley.edu/files/bccj/Embargoed_version.pdf .

turn, will yield public benefits through economic development that spurs regional productivity and competitiveness, improved safety, reduced emissions of greenhouse gas and other pollutants, and a reduction of wear-and-tear on other infrastructure in the state.

FRA's Investment in California

CHSRA is pursuing a phased approach to implement the entire California HSR System. This approach is consistent with how other high-speed rail and major infrastructure systems have been implemented, both in the U.S. and across the globe.

CHSRA is leveraging the majority of the $3.5 billion in federal funding to construct the first 119 miles of infrastructure in California's Central Valley between Madera and Bakersfield. Recovery Act funding is also being invested in preliminary engineering and required environmental reviews for remaining sections of the California HSR System between San Francisco and Los Angeles. CHSRA committed approximately $2.9 billion in state matching funds to complete the first 119 miles of the project as well as preliminary engineering and environmental work for San Francisco to Los Angeles portion of the system. This commitment is secured by enforceable cooperative agreements between FRA and CHSRA. To date, CHSRA has spent approximately $1.4 billion of the $2.5 billion Recovery Act grant.

Through the 2016 Business Plan, CHSRA announced its plan for initial operation between Silicon Valley (San Jose) and the Central Valley (near Bakersfield) by 2025. CHSRA projects operations from San Francisco to Los Angeles and Anaheim will begin in 2029.

FRA continues to work closely with CHSRA throughout its planning, environmental analysis, and project development processes to identify opportunities for operational and engineering efficiencies. These efforts serve to maximize the value of these investments, meet compliance requirements, and address impacts to communities.

Oversight

Like all major and ambitious transportation projects, whether public or private and no matter the mode, there have been, and remain, important challenges that demand continued attention and conscientious oversight. FRA takes its obligations to protect the taxpayer's investment seriously and closely monitors all of its grantees, including CHSRA.

As CHSRA accelerates its construction activities and expenditures, FRA has a team of staff dedicated to oversight, monitoring, technical assistance, and general programmatic support to protect the federal investment and ensure successful delivery of the project. FRA's monitoring and oversight efforts include a robust, risk-based program to (1) ensure compliance with federal rules and regulations; (2) identify fraud, waste, and abuse; and (3) identify the need for technical assistance. As is true for any FRA funded project, a regional team of interdisciplinary experts manages the CHSRA grants on an ongoing basis.

Consistent with grants management and oversight best practices, FRA works closely with our grantees to ensure that their grant agreements are current. If deemed necessary, FRA will consider amendments to a grant or cooperative agreement as an essential exercise of our due diligence. Complex projects may require more than one amendment to address changes in

timing of activities such as procurement and construction. While a grant may be funding an unprecedented project, amending a grant is common. In fact, FRA has amended 383 of the 433 grants obligated from January 2010 to July 2016 at least once. Given the complexities of the CHSRA grant agreements, FRA has previously executed amendments to these agreements to maintain comprehensive oversight while administering the HSIPR program.

On May 18, 2016, CHSRA and FRA executed the sixth amendment to the CHSRA cooperative agreement that governs the approximately $2.5 billion in Recovery Act funding. The purpose of this amendment was to ensure that it accurately reflects the project status and planning. This amendment improves FRA's ability to oversee and monitor the grant and further ensures that CHSRA is accountable to deliver the project.

In the last grant amendment, CHSRA also requested FRA's approval of a $60-million working capital advance for right-of-way acquisitions of approximately 200 parcels needed to allow construction work to progress. Let me take this opportunity to explain this method of payment: A working capital advance is one of the methods of payment allowed under the Federal government's rules involving federal financial assistance[9]. This authority is available, and can be used effectively where timely right-of-way acquisition presents a challenge for large infrastructure project across the country. In this example, CHSRA's ability to efficiently acquire real property is essential to keeping the project on schedule.

FRA reviewed CHSRA's request for a working capital advance and determined that it was appropriate to use this method of payment. Our approval of CHSRA's request includes conditions and limitations to protect the taxpayers' interest. For example, CHSRA will submit monthly reports documenting its expenditures from the working capital advance to FRA. Furthermore, like any grant expenditure, FRA has the right to demand repayment if it finds grant funds were used for an ineligible purpose.

Similar to all grants funded by the Recovery Act, the funds FRA has invested in California are subject to the September 30, 2017 spending deadline, regardless of payment method.

As part of our management of the CHSRA cooperative agreement, FRA is in daily communication with CHSRA to receive up-to-date project information. FRA will continue to monitor and oversee CHSRA as it implements this important infrastructure project throughout the grant's period of performance. We understand the complexity of delivering a project of this magnitude. FRA's close work with CHSRA and our monitoring program allow us to proactively identify potential risks and develop appropriate strategies in collaboration with CHSRA to mitigate those risks and successfully deliver this project.

FRA remains fully committed to its oversight role during the expenditure of grant funds and will also oversee the safety of the system when it is online. For California to continue on its trajectory as the State that attracts talent and generates ideas that fuel innovation with a global impact, it must maintain its commitment to high-speed rail.

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[9] Code of Federal Regulations, title 49 part 18.

Conclusion

For centuries, leaders in California and across the United States have built bold projects. Many of those projects haven't been easy or without challenges; but, in the long run, we as a country must still do big things, and these projects are worth the persistence and dedication because they are necessary to move our country forward.

Thank you, Mr. Chairman, for the opportunity to testify, and I am happy to answer any questions you may have.

Statement of Dan Richard
Chairman of the California High-Speed Authority Board of Directors
Hearing on "Continued Oversight of California High-Speed Rail"
Before the Subcommittee on Railroads, Pipelines, and Hazardous Materials
Committee on the Transportation and Infrastructure
U.S. House of Representatives

August 29, 2016
San Francisco Federal Building - 90 7th Street
San Francisco, California

Chairman Denham, Ranking Member Capuano, and Members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss the California High-Speed Rail program as part of the Subcommittee on Railroads, Pipelines, and Hazardous Materials ongoing oversight. I am Dan Richard, Chairman of the Board of Directors of the California High-Speed Rail Authority (Authority). In this testimony, I would like to highlight major areas of progress the Authority has made since this Subcommittee's last oversight hearing in January 2014. I will also summarize some key elements of the Authority's 2016 Business Plan,[1] most notably the Authority's decision to deliver Silicon Valley to Central Valley as an initial operating line while making concurrent system-wide strategic investments throughout the state. Looking forward, I would like to provide some thoughts about how Congress and the Administration can advance the development of high-speed rail in California and nationally.

Mr. Chairman and Ranking Member, much has happened since this Subcommittee's last oversight hearing in January 2014. Starting with our official groundbreaking in January 2015, there are now more than 119 miles of construction-related activities underway with almost $3 billion in contracts, all of which came in with bids lower than our estimates. Major construction activity in the Central Valley is providing good paying jobs and creating opportunities for small and disadvantaged businesses all over the state. At the same time, our capital cost estimates for building the Phase 1 system between San Francisco /Merced and Los Angeles/Anaheim are lower than prior estimates.

In 2014, the California State Legislature and the Governor reaffirmed their commitment to the program by providing a new ongoing revenue stream through the state's Cap and Trade proceeds (also referred to as Greenhouse Gas Reduction Funds). This and other developments have influenced the strategic direction of the program expressed in the Authority's 2016 Business Plan that was submitted to the State Legislature this May. We now have a clear path forward for funding the initial operating line from the Silicon Valley to the Central Valley with federal and state public funds already committed to the program; and we plan to commence high-speed rail passenger service by 2025.

As stated in the 2016 Business Plan, our fundamental objective is to initiate high-speed rail passenger service as soon as possible so we both demonstrate its benefits and begin generating revenues that will then attract private sector participation and help fund extending the system

[1] The California High-Speed Rail Authority 2016 Business Plan:
http://www.hsr.ca.gov/about/business_plans/2016_Business_Plan.html

beyond an initial operating line. And while delivering an initial operating line, we will also make strategic concurrent investments throughout the California High-Speed Rail corridor that will provide early benefits to local communities and regional transportation systems and be linked together over time.

I. Major Areas of Progress Since 2014

A. Construction, Jobs and Small Businesses

Mr. Chairman, during this Subcommittee's January 2014 oversight hearing, you questioned whether our program had created any construction jobs. There is no longer any question about this point, which was of course the central goal of the American Recovery and Reinvestment Act of 2009 (ARRA; P.L. 111-5). Apart from statistics, I would like to renew my earlier invitation to you and the Members of this Subcommittee to tour our project construction sites in the Central Valley so that you can see for yourself the transformative progress we are making on the ground. America's first true high-speed rail system is under construction in California.

Leading up to and continuing after the January 2015 groundbreaking, we advanced the design, secured right of way, attained permits and continued geotechnical investigations that are essential to completing structural design, demolished mostly-dilapidated existing structures and relocated utilities along the right of way in preparation for the construction of dedicated high-speed rail trackways and bridges. Our construction priority is to build the long-lead time and more complex viaducts and overcrossings first, since the at-grade alignments will proceed more quickly later on. Since the start of construction more than a year ago, the project now has seven active sites with more to come this fall (for more detailed updates, including videos of our progress, please visit BuildHSR.com):

- By June 2015, the first vertical structure started taking shape at the Fresno River Viaduct in Madera. Seven small businesses and more than 100 workers have been involved in the construction of the viaduct.

- In January 2016, we began demolishing and then rebuilding the Tuolumne Street Bridge in downtown Fresno to allow for clearance over the high-speed rail line and for two-way traffic to support the revitalization of downtown Fresno's city core.

- In February 2016, we began preparing for construction of the Cedar Viaduct, which will mark the southern end of the high-speed rail line through Fresno. The viaduct will have four, tall concrete arches and extend over State Route 99, as well as North and Cedar Avenues.

- In February 2016, drilling and concrete operations began at the Fresno Trench, the almost 1.5 mile long and 40-foot deep trench that will carry high-speed rail trains under State Route 180 in Fresno.

- In partnership with Caltrans, work has begun to realign portions of State Route 99 north of Fresno to accommodate high-speed rail and, at the same time improve traffic operations, reducing congestion and improving safety in this busy corridor.

- Rebar cages have now been installed to form eight columns for the bridge at Cottonwood Creek in Madera County. Crews are in the process of pouring concrete for those columns. The Cottonwood Creek bridge will be 250 feet long stretching from north of Avenue 13 to south of Avenue 15 in Madera County.

- Engineers are reviewing plans to start foundation work in the riverbed at the San Joaquin River Viaduct in North Fresno, which will feature two concrete arches and a "pergola" structure that will allow high-speed tracks to travel above the already established Union Pacific tracks. Rebar cages have been tied and are ready to be placed once drilling work is complete.

Currently, this construction is being supported by the Authority's partnership with the Federal Railroad Administration (FRA) and its participation High-Speed Intercity Passenger Rail (HSIPR) program with funds made available through ARRA.[2] The Obama Administration proposed and the Congress enacted ARRA to create jobs, aid the economic recovery of the Nation's poorest areas, spur technological development, and build new transportation infrastructure that provides long-term economic benefits – and the California High-Speed Rail program continues to contribute to these goals.

The Authority has set an aggressive 30 percent goal for small business participation. And Mr. Chairman, given your personal advocacy on veterans' issues and your support for veteran hiring programs both nationally and here in California, I would like to highlight the Authority's specific goals for Disadvantaged Business Enterprises (DBE) and Disabled Veteran Business Enterprises (DVBE) of 10 percent and three percent respectively. There are currently 276 small business contractors engaged in work on the California High-Speed Rail program statewide; of that number, 94 are DBEs and 35 are DVBEs. Additionally, the Authority has dispatched over 470 craft labor workers to its design-build construction package sites, who have worked over 165,000 craft labor hours.

Mr. Chairman, Ranking Member, and Members of the Subcommittee, the Authority's invitation to tour its Central Valley construction sites remains open. In addition to seeing for yourselves the progress we are making on the ground, I would also like you to meet the construction managers, workers, small business owners and veterans who are supporting this transformative program - and in some instances - *listen to how this program is also transforming their lives* and providing them with new opportunities.

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[2] The Authority received a $2.552 billion Federal Railroad Administration (FRA) High-Speed Intercity Passenger Rail (HSIPR) grant funded by ARRA, a $928 million HSIPR grant funded by the Consolidated Appropriations Act, 2010 (Fiscal Year 2010 Appropriation Act, P.L. 111-117), and other funds made available through federal appropriations and grants.

B. September 30, 2017 ARRA Deadline

The Authority and the FRA are also extremely focused on meeting the September 30, 2017 statutory deadline for expenditure of ARRA funds. We are continually assessing and improving our methods of delivering the project and accelerating construction activity. Last year, for example, the Authority began a focused effort to strengthen its right of way organization and significantly improved right of way delivery, which paved the way for the significant progress we have made in construction I just described to you. The Authority, in partnership with the FRA, will work to sustain and build upon this progress.

The Authority is currently tracking almost $1.8 billion in ARRA expenditures and accruals against its $2.55 billion ARRA HSIPR grant. Based on progress to date and updated projections, the Authority will meet the September 30, 2017 statutory deadline for expenditure of ARRA funds and ensure that every single dollar is spent for the purpose it was intended.

C. Updated Cost Estimates

Mr. Chairman, during this Subcommittee's January 2014 oversight hearing you cited a number of cost estimates for the program, some now several years old. Our experience, now that we are in construction, is that our design-build contract bids have actually come in significantly lower than our estimates. On average, Construction Package 1 and Construction Package 2-3 bids came in approximately 30 percent below our estimates. As announced in January 2016, bids for the Construction Package 4 contract continued this trend and came in about 25 percent below our estimate. All told, the bids for these design-build construction packages have come in approximately $537 million to $1.7 billion lower than our high and low range estimates. That said, we have been experienced some challenges on our first construction package. Acquiring right of way has lagged and third party agreements have taken longer and are now projected to cost more than originally predicted. We acted quickly to identify and address these challenges, enhanced our land acquisition process and increased our estimates for third party agreements. And, importantly, as we go forward, we continue to maintain appropriate levels of project contingency.

The Authority's 2016 Business Plan presents a comprehensive update of our capital cost estimates, factoring in the lessons derived from our first design-build construction bids, design refinements suggested in those proposals and through other reviews, advancing more detailed engineering and design work, conducting value engineering, incorporating contractors' viewpoints and other changes. Through this process our overall Phase 1 cost estimate has been significantly reduced. For the same scope of work, these updated estimates reflect an eight percent reduction in costs, down to $62.1 billion in year of expenditure dollars (YOE$), when compared to the $67.6 billion (YOE$) estimate presented in our 2014 Business Plan.

I would also like to remind this Subcommittee that, as a result of a bipartisan request in 2012, the Government Accountability Office (GAO) conducted a detailed and exhaustive audit of our capital cost estimating methodologies. In releasing its final report in March 2013, it found, among other things that "...the Authority substantially met best practices for developing accurate cost estimates."

As a result of the lower capital cost estimates, we now propose to reinvest some of these savings to enhance service levels in the vital Los Angeles to Anaheim segment. A $2.1 billion investment in that corridor will fulfill the commitment we made in our 2012 and 2014 Business Plans to provide one-seat ride service all the way to Anaheim. Our investments will also significantly enhance the capacity, speed and reliability of this high demand rail service. Moreover, it will greatly benefit public safety by grade-separating some of the most dangerous at-grade crossings in the state.

After incorporating this additional investment for Anaheim, which represents a change in scope since our 2014 Business Plan, our cost estimate has still been reduced from $67.6 to $64.2 billion (YOE$), which is our revised Phase 1 system capital cost estimate presented in the 2016 Business Plan.

D. Progress on Environmental Clearance

Over the last two years, significant progress has been made in advancing environmental clearance of the Phase 1 system. In June 2014, we achieved a National Environmental Policy Act (NEPA) Record of Decision on the Fresno to Bakersfield section. Completing the rest of the environmental clearance for the entire Phase 1 system as soon as possible is a high priority for the Authority. Doing so will provide maximum flexibility to take advantage of opportunities to develop any segment of the system as funding and circumstances allow.

E. State Funding: Cap and Trade and Proposition 1A

Mr. Chairman and Ranking Member, while the federal government is a critical and necessary partner in the California High-Speed Rail program both today and in the future, the majority of funding currently committed to the program is California state funding. Additionally, since this Subcommittee's January 2014 hearing, the State of California has brought a new source of funding to the table for this program.

In 2014, the state began providing "Cap and Trade" auction proceeds to the Authority for the California High-Speed Rail program. Cap and Trade auction proceeds are revenue generated by the state from the sale of emission allowances as part of the state's efforts to reduce greenhouse gas (GHG) emissions. Significantly, with the June 2014 enactment of Senate Bill 862, the Legislature and Governor approved an annual appropriation of 25 percent of the annual Cap and Trade proceeds on a continuous basis to fund California High-Speed Rail.

This long-term commitment of Cap and Trade proceeds to the program has influenced the program's strategic direction as expressed in 2016 Business Plan; with this new funding, and the public federal and state funds already committed to the project, the Authority is positioned to deliver the first operating high-speed rail line in the country by expanding beyond the Central Valley into Silicon Valley. To date, we have received $1.1 billion in Cap and Trade funds for high-speed rail.

Additionally, in 2008, California voters approved the "Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century" (Proposition 1A). Proposition 1A authorizes the state to issue $9.95 billion of general obligation bonds, $9 billion of which will be used to develop high-speed rail. Proposition 1A also stipulated certain operational requirements and that the system would operate free of federal, state or local subsidy. Approximately $2.6 billion of this authorized funding has been appropriated by the California State Legislature to match federal grant funds in the Central Valley; and $1.1 billion has been appropriated for "Bookend Investments" including Caltrain electrification on the San Francisco Peninsula and other early improvements in Southern California. Another $950 million is authorized for regional connectivity projects, as laid out in Proposition 1A. These funds have been used to fund regionally significant projects in Northern and Southern California including $61 million for the Central Subway Project in San Francisco, $35 million for Metrolink Positive Train Control, $114 million for the Regional Connector Transit Corridor Project in Los Angeles and $58 million for improvements to the Blue Line light rail system in San Diego.

The Authority has successfully and favorably resolved all Proposition 1A litigation challenges filed to date. Trial court rulings in 2013 against the Authority were completely reversed on appeal; the reversal is now final. A remaining claim not heard as part of the 2013 rulings was heard and decided in 2016 at the trial court level in favor of the Authority and was not appealed by the appeal deadline so is also now final. The Authority anticipates taking the final procedural steps to access appropriated Proposition 1A bond funds this year so that it can utilize this funding for construction next year.

II. Some Key Elements of the 2016 Business Plan

A. Silicon Valley to Central Valley Initial Operating Line

Mr. Chairman and Ranking Member, based on the above developments, as well as updated ridership, revenue and other forecasts, we have evaluated how to most efficiently achieve the objective of getting a high-speed passenger rail line into operations as quickly as possible with existing federal and state funding committed to the program.

Our analysis shows that an operating line that connects the Silicon Valley (from Diridon Station in San Jose) to Central Valley (an interim facility north of Bakersfield)[3] meets Proposition 1A requirements, including non-subsidized operations. This "Silicon Valley to Central Valley" initial operating line can be built with available funding from Proposition 1A bonds, federal funds and the continued anticipated Cap and Trade proceeds.

The 2016 Business Plan describes how we plan to build the Silicon Valley to Central Valley line by 2024 and begin offering passenger service on it by 2025. We also determined that this is the

[3] The Authority's goal is to avoid the need for an interim station. If, however, an interim station is needed due to funding constraints, consideration will be given to alternative locations, such as adjacent to the existing Amtrak station in the City of Wasco, with the goals of reducing the level of interim investment, minimizing impacts, and maximizing connectivity with the permanent station in Bakersfield.

best way to begin sequencing of the larger Phase 1 system. By building a line connecting northern California to the Central Valley - commencing service and starting to generate revenue - we will be in a position to attract private investment and unlock additional capital to help move the rest of the system forward.

Mr. Chairman, during this Subcommittee's January 2014 oversight hearing, you called on the Authority to develop a plan that accepts economic and budgetary realities. I would highlight for your attention the March 25, 2016 letter from the California High-Speed Rail Peer Review Group that states, "[The draft 2016 Business Plan] is also the first Plan in which the Authority is shaping its approach in accord with the funding it considers available rather than relying on unspecified sources. This shift from an "unconstrained" approach to a "constrained" approach lays out the Authority's assessment of what, given certain assumptions, they can deliver using existing funding sources." I believe that, in many ways, the Authority's 2016 Business Plan addresses the issue that you have raised.

At the same time, the implications of the Silicon Valley to Central Valley connection are tremendous. Today it takes about three hours to drive from Fresno to the Bay Area; flights are available but often at exorbitant prices. With this new connection, a trip from Fresno to San Jose will take about an hour on high-speed rail, which is a game changer both for the people and the economy of the Central Valley and for Silicon Valley as well. New job markets will be opened up for people living in the Central Valley, and creating a high-speed rail connection to the Central Valley would help address the affordable housing crisis in the Bay Area. New linkages will be created between higher education institutions in the Central Valley and high-tech and other cutting edge industries in the Silicon Valley. And some high-tech companies might choose to locate certain corporate functions in the Central Valley where commercial real estate is less expensive, generating new job opportunities in this region.

That said, the Authority's objective is that the initial line would extend to Bakersfield and San Francisco, tying into the electrified Caltrain corridor. This extended line would significantly enhance ridership and revenues and therefore attract higher value private sector concession bids based on future discounted cash flows. It will require approximately $2.9 billion of additional funding to extend the line to Bakersfield and for initial improvements in the San Jose to San Francisco corridor to allow reasonable operation of high-speed rail trains in the Caltrain corridor between San Jose and the 4th and King Station in San Francisco and ultimately Transbay Transit Center. That would be a good investment, however, since it would generate significant additional ridership and revenue that could be monetized as an additional $4.4 billion private investment in the program.

It is also the Authority's goal to complete a connection to Merced. Given the opportunity to leverage more ridership, revenue and private sector participation, our priority will be to secure additional funds, including federal, to complete the full San Francisco to Bakersfield line. The state is working with the City and County of San Francisco and others to develop options for funding the extension from San Jose to San Francisco. On a cost-benefit basis, this extension would provide significant benefits for the system as a whole, enhance regional mobility and connectivity and expand private participation. If those additional funds are not forthcoming, we can and will still construct the Silicon Valley to Central Valley line described above.

B. Concurrent System-wide Strategic Investment

Mr. Chairman and Ranking Member, it is important understand that while the Authority is currently delivering a major construction project in the Central Valley, we have also formed strategic partnerships throughout the State of California. Through these partnerships, we are making discrete investments that connect state, regional and local rail systems, and that provide immediate mobility, environmental, economic, safety and community benefits. Together, these investments are also preparing a solid foundation for high-speed rail. We will continue to enter into partnering agreements with other transportation providers to aggregate federal, state and local funding sources and advance regional planning and coordination. This approach will yield the best and fastest results.

Here in Northern California, we have already taken several concrete steps to lay the foundation for high-speed rail in the region. We are proceeding with environmental review and working with regional partners and stakeholders to determine the best, most efficient ways to integrate the high-speed rail system into local communities.

Additionally, we have entered into a Memorandum of Understanding (MOU) with the Peninsula Corridor Joint Powers Board whereby we are providing Proposition 1A funds to enhance the existing rail corridor between San Francisco and San Jose by fully electrifying the Peninsula Rail Corridor. These improvements will allow the high-speed rail system to eventually blend with the Caltrain commuter rail system. Caltrain is also installing an advanced signal system, including positive train control, which will significantly improve performance and enhance safety on the corridor.

Further, we will be entering into an MOU with the City of San Mateo to provide funding for three connected grade separations, including a grade separation that is number seven on the California Public Utilities Commission (CPUC) list of top priorities. This project will increase the efficiency of future blended operations in the Caltrain corridor, and also have significant near-term safety benefits.

Connecting Northern California to the Central Valley will also include significant station improvements creating new multimodal connections in northern California – San Francisco, Millbrae, San Jose and Gilroy – and new linkages to stations being planned in Merced, Madera, Fresno and Kings/Tulare in the Central Valley. These investments and linkages will enhance the commercial and retail opportunities at each station, increasing the economic activity in and around them.

- In 2014, the City of Gilroy and the Authority entered into a station planning agreement to work together to develop a station area plan that will serve Gilroy, south Santa Clara County and surrounding areas. Gilroy will become a new gateway to the Bay area bringing new opportunities for redevelopment and economic growth.

- Connecting high-speed rail into the Diridon Station in San Jose (the tenth largest city in the nation) will provide connections to Bay Area Rapid Transit (BART), Altamont

Corridor Express, Caltrain, Santa Clara Valley Transportation Authority light rail and buses, Amtrak's Coast Starlight service and the Capitol Corridor (Amtrak). In April 2016, we entered into a station area planning agreement with the City of San Jose and our transportation partners to develop new intermodal transportation opportunities in the region and encourage transit-oriented development and smart growth policies around it.

- In addition to transit, rail and ground connections, the Millbrae Multi-Modal Station will facilitate a connection to San Francisco International Airport (SFO) allowing Central Valley residents to connect quickly and efficiently to SFO for national and international travel.

The Authority's 2016 Business Plan also firmly restates our commitment, as embodied in a 2012 Southern California MOU, to work with our state and regional partners and accelerate regionally significant concurrent investments in Southern California (while maintaining the goal of starting service on the full Phase 1 system by 2029). Through this 2012 Southern California MOU, we are working with our partners to leverage resources, work together to secure new funding, identify and fund projects ready to move into construction (or advance others through environmental clearance) and advance improvements as quickly as possible. As in Northern California, these discrete investments will provide significant near-term improvements that will benefit passenger, freight and auto traffic, while serving as incremental building blocks for high-speed rail service in California.

For example, the approximately 45-mile rail corridor connecting Burbank-Los Angeles-Anaheim is of regional and statewide significance and is critical to supporting the economy of Southern California. In addition to moving people, it is a vital freight and goods movement corridor. It is part of the nation's second busiest Amtrak line, is serviced by Metrolink commuter rail service and it will be an essential link in the statewide high-speed rail system.

Therefore, the Authority has worked closely with Caltrans, the California State Transportation Agency (CalSTA) and regional partners to develop an initial package of projects that can be advanced quickly, provide immediate benefits and is integral to sequencing in high-speed rail service in the Burbank-Los Angeles-Anaheim corridor. Focused, strategic early investment projects - like grade separations – will increase capacity and improve the speed, safety and efficiency of existing passenger and freight services. We will seek to increase the number of projects that can be completed by leveraging additional funding sources, including the Transit and Intercity Rail Capital grant program, funded by Cap and Trade proceeds, as well as federal funding programs.

- This year, the U.S. Department of Transportation awarded a $15 million Transportation Investment Generating Economic Recovery, or "TIGER" Discretionary Grant for Rosecrans/Marquardt Avenue Grade Separation Project. The CPUC has identified it as the most hazardous grade crossing in California. It is also one of the priority projects identified in the 2012 Southern California MOU, and he Authority is providing $68.6 million of Proposition 1A funding for this $137.2 million project. When complete, it will yield significant traffic, safety and air quality benefits. Passenger rail services throughout the region will dramatically improve – allowing service to the Inland Empire to more

than double from Los Angeles. Orange County could also see a greater than 50 percent increase in rail service as well.

III. Looking Ahead

Mr. Chairman and Ranking Member, we have made tremendous progress in the last two years. We are achieving real results, creating jobs and opportunities for people, and delivering Nation's first high-speed rail system with the funding that Congress and the Administration have provided. The State of California has also committed significant resources to delivering the Nation's first system. *High-speed rail is happening, and we're making it happen together.* Looking ahead, we must continue this partnership.

We applaud your leadership in enacting the Fixing America's Surface Transportation Act (the FAST Act, P.L. 114-094) last year, which provides a five-year authorization of highway, transit, safety and rail programs. We appreciate that the FAST Act authorizes a total of $2.2 billion for rail funding from the General Fund over five years, and we urge you to work with your Congressional colleagues to ensure that funding for these programs is appropriated. We also appreciate the improvements that you have made to federal transportation credit assistance programs such as Transportation Infrastructure Finance and Innovation Act (TIFIA) and the Railroad Rehabilitation and Improvement Financing (RRIF) program.

However, traditionally, transportation infrastructure projects of this magnitude can rely on the federal government as a funding partner with dedicated, predictable federal grant funding of up to 50 percent or higher. Key transportation corridors, such as the Interstate Highway System, were built with 90 percent federal funding. Yet, while the U.S. has invested $10 billion in high-speed rail through the ARRA and Fiscal Year 2010 Appropriation Act funds, in 2015 alone, China invested $126 billion—more than 10 times what the U.S. has invested during the last eight years—on high-speed rail projects.[4]

Here in California, we believe that America is a country with bold vision that does big things, and we believe that robust investment in infrastructure benefits our industry, opens freight capacity to enhance the flow of agricultural products and sustains an innovative state economy that helps drive America's economic competitiveness. The California High-Speed Rail program represents the first ever effort to build an intercity high-speed passenger rail system in this country. California is at the forefront of developing an entirely new American industry where investments *in* and the development *of* new technologies, manufacturing capabilities, and innovative business practices will create high-skilled, good paying jobs and benefit American public works for decades.

We believe that the California High-Speed Rail program may serve as model of a federal, state, industry and labor partnership that creates jobs, links economies and communities, creates new mobility options, preserves our environment and builds a sustainable future. We must build on the momentum and the lessons we are learning here in California – we cannot continue to let America fall behind its counterparts in Europe and Asia in high-speed rail.

[4] http://www.chinadaily.com.cn/china/2016-01/04/content_22926538.htm

Therefore, we urge Congress to provide significant, long-term, dedicated and predictable federal investment for our Nation's high-speed rail corridors. Earlier this year, CalSTA Secretary Brian P. Kelly wrote members of the U.S. Congress to support the Obama Administration's proposal to provide $6 billion in fiscal year 2017 for high-performance rail service: $2.3 billion for Current Passenger Rail Service (e.g., capital expenses on Amtrak state-supported routes) and $3.7 billion for Rail Service Improvements (e.g., construction of new high-performance passenger rail networks), and I would like to strongly reaffirm California's support for this proposal.

IV. Conclusion

In closing, I would like to thank you again for allowing me to provide you with an update on the exciting progress the Authority has made towards implementing the nation's first high-speed rail system. I look forward to continuing to work with the Subcommittee to ensure that the nation's first high-speed rail system is built correctly, cost-effectively, and in the best interest of the nation's and California's taxpayers.

CALIFORNIA
High-Speed Rail Authority

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EDMUND G. BROWN JR.
GOVERNOR

September 29, 2016

The Honorable Jeff Denham
Chairman
Subcommittee on Railroads, Pipelines and Hazardous Materials
Committee on Transportation and Infrastructure
B-329 Rayburn HOB
Washington D.C. 20515

Dear Chairman Denham:

Thank you for the opportunity to testify before the Subcommittee on Railroads, Pipelines and Hazardous Materials on August 29 and for allowing an opportunity to augment the record of that hearing by responding to written questions. Attached to this letter are responses to each of the six questions posed by yourself and Congressman Farenthold.

Should you have any additional questions or need any further information regarding California's high-speed rail program, please do not hesitate to contact me.

Sincerely,

Dan Richard
Chair, Board of Directors
California High-Speed Rail Authority

(enclosure)

770 L Street, Suite 620, Sacramento, CA 95814 • T: (916) 324-1541 • F: (916) 322-0827 • www.hsr.ca.gov

At the hearing you explained that the electrification project will include intrusion detection devices and other mechanisms to minimize unauthorized entry to the corridor. What type of censors or fencing will there be to eliminate trespassing? What will be visible to residents?

The California High-Speed Rail Authority (Authority) gives highest priority to ensuring the safety and security of California's high-speed rail system. Our safety and security management team has put a great deal of effort into developing policies and procedures so that California's system is developed according to international safety and security best practices and utilizes the most advanced and innovative safety technology available today.

As we move forward with design and construction of the system, we will continue to work with federal, state and local officials to implement all necessary safety measures from Positive Train Control (PTC) to grade separations, quadgates, intrusion barriers and detection devices. As a part of this process, we will identify potential safety and security issues in collaboration with our partners across levels of government and incorporate that information into our future designs and ultimately construction. We will also be selecting specific technologies that best fit the needs of each segment of the system. We believe that this collective process, along with information derived from international experience, will result in a system that is as safe and secure as possible. We can certainly keep the Committee apprised of developments in this area as we move through the analysis and design process.

The Committee can find current information about our safety and security plans online at http://hsr.ca.gov/docs/newsroom/fact%20sheets/cahsr_safety_2016.pdf (A copy of this document is attached).

How many local Central Valley construction jobs have you created?

As you well know, Chairman Denham, unemployment in the Central Valley has been more than twice the state average for years. However, construction of high-speed rail is already helping to address that vexing problem. As a direct result of the state and federal governments' investment in building the Central Valley backbone of the system, people are being put to work. Not only are tradesmen and women being directly employed, but construction is having a positive impact throughout the region's economy.

Indeed, a recent study conducted by the University of the Pacific shows that Fresno-area unemployment is now below 10% for only fourth time in the last 25 years, with high-speed rail construction being a key factor in this improvement. The report goes on to state that, "increasing construction activity on high-speed rail and improved drought conditions in the Fresno area will help keep the expansion [of job growth] going in 2016 and 2017." The Committee can find more information about the study here: http://www.pacific.edu/Documents/school-business/BFC/Forecasts/CA-Metro-Forecast-May2016.pdf

Specifically, high-speed rail has directly created 500 construction jobs to date – a number that is growing all the time as our contractors continue to advance from design to construction and mobilize their workforce. To be specific, at present only Construction Package 1 has fully

progressed to the construction stage; Construction Package 2-3 is ramping up and Construction Package 4 is still in the design phase of its design build contract. Accordingly, as each of these contracts moves into its peak phase, we expect hundreds of additional construction jobs to emerge. Thousands more jobs have been created through a combination of all the work being done, both directly and indirectly, as a result of all of the contractors and construction workers spending their hard earned money in and around Fresno.

One example of this type of job creation is Outback Materials, a Small Business with headquarters in Madera County that was awarded a contract to provide concrete for our first construction package in the Central Valley. As a result of this work, Outback has hired 25 new employees, purchased over a dozen new pieces of equipment, and even built a new state-of-the-art concrete plant in the City of Fresno.

Outback is just one of many companies with this type of success story, and there will surely be more to come. It is also important to note that none of these jobs or business opportunities would have been created had attempts to block funding for this critical investment in California's future been successful.

If the Committee would like more information about the Authority's Small Business Program, our monthly Small Business Newsletter can be found here:
http://hsr.ca.gov/docs/programs/small_business/SB_Newsletter_082516.pdf

Regarding those construction jobs created in the Central Valley, I mentioned at the hearing my concern that a person could be living in a hotel room or be a new temporary resident to the area using a local ZIP code, claiming to be "residents" of the Central Valley. What Process are you taking to ensure these Central Valley construction jobs are actually residents of the Central Valley and not temporary residents?

No instances of such a circumstance have been reported or alleged to date. The Authority's contractors are responsible for ensuring the accuracy of employee information for the purposes of payroll and taxes.

As we discussed, California High-Speed Rail Authority is expecting tickets to on [sic] approximately a 20 cents-per-mile basis, and at that price point the HSR would need no subsidy whatsoever. This would make CAHSR the cheapest system on a per-mile basis in the world. According to the International Union of Railways only 3 of 11 High-speed Rail lines in the world make an operating profit and those lines are 30-50 years old and have MUCH higher population densities than LA to San Francisco. All other lines require large government subsidies to operate. The French TGV, operates at 52 cents-per-mile while in Germany it's 46 cents. The closest you get to 20 cents is the heavily subsidized Chinese line between Shanghai and Beijing which combine for over 40 million people and charge 22 cents per mile. Please provide a detailed actuarial analysis that justifies your project ticket pricing. In addition, what is the cost of the tickets you plan on selling for the initial construction segment, and initial operating segment, and how did you arrive at those figures?

Unlike most conventional rail systems, high-speed rail systems worldwide have demonstrated that service revenues are able to cover operating costs without operating subsidies of any kind. High-speed rail's commercial success is based on its ability to provide superior service for medium length trips (typically 100 to 600 miles), which are too long for auto travel and too short for convenient air travel. The International Union of Railways has consistently said that this is the case and the citation here is simply inaccurate. In fact, even the description of the Shanghai-Beijing line as being heavily subsidized is incorrect as it has been reported by the Wall Street Journal to have earned over $1 billion in 2015 (http://blogs.wsj.com/chinarealtime/2016/07/20/chinas-busiest-high-speed-rail-line-makes-a-fast-buck/).

Other examples of profitable high-speed rail services include:

- Japan Central which made $4.5 billion in FY2012 alone
- Renfe, the operator of the Spanish high-speed rail network that made a gross operating profit of over $250 million including paying for subsidies on its non-high-speed rail services
- Taiwan which earned $415 million from operations in just its fifth year of service
- Amtrak's Acela Express, which makes over $200 million per year while running on 100-year old infrastructure
- Eurostar that operates service between London, Paris, and other destinations produced a profit of $33 million
- The Nuovo Trasporto Viaggiatori (NTV) service, known as the "Ferrari trains" spent over a €1 billion on trains and other equipment to operate on the Italian rail network, with no subsidy whatsoever. They plan to recoup that investment from operating high-speed rail services
- Similarly, after High-Speed 1 between London and the Chunnel was completed, the right to operate that line sold to private sector bidders for close to $3 billion, who will recoup their investment from the services (such as Eurostar) that will run on the infrastructure.
- In France, LISEA, a private sector company run by VINCI, is completing construction on the roughly $11 billion Tours-Bordeaux high-speed rail line where the private sector invested hundreds of millions of dollars that they will recoup by operating the line for 50 years.

These examples are not unique and represent just a snapshot of the profitable high-speed rail services around the world. In developing the system in California, we are taking into account all of this international expertise in developing the system to be able to run profitably, just as Proposition 1A intended. More information on our ridership, revenue, and cash flow projections is included in the 2016 Business Plan.[1]

[1] http://hsr.ca.gov/docs/about/business_plans/2016_BusinessPlan.pdf

Please note as well, that critics of the program often include recovery of capital cost (i.e. the cost of building the physical infrastructure) as a metric in determining whether a project is operating without a subsidy. This is not a correct measure in terms of legal compliance with Proposition 1A, nor in terms of a fair comparison with other infrastructure projects. Our analysis shows that California's high-speed rail system, once built, will operate without on-going subsidies, based on ticket pricing that is competitive with other modes of transportation.

How much of the rail line from Los Angeles to San Francisco will be elevated versus at grade?

The First Construction Segement, consisting of our first three construction packages, from Madera County to Kern County will consist of approximately 5 miles of elevated track and and approximately 110 miles at grade or on berms.

Since the remainder of the system is still in the preliminary environmental planning phase, meaning that no specific alignments have been chosen yet, design has not advanced to a point where we are able to definitively state how much track will be eleveated versus at grade. We can tell you, however, that for cost estimating purposes our 2016 Business Plan assumes approximately 325 miles at grade, 75 miles of elevated track and 50 miles of tunnel.

How much has the use of eminent domain increased the costs you budgeted for right-of-way acquisition?

To date, the use of eminent domain has not increased any costs. Approximately 88% of the properties we have acquired so far have been secured through successful direct negotiation with property owners. That means that only 12% of the properties we have acquired have needed to go through the courts.

In fact, property acquisition costs are running below our budget estimates, which assumed that despite our efforts to negotiate, the use of eminent domain would be necessary in some instances as is typical in any large-scale infrastructure program.



Testimony of Jim Hartnett, Executive Director of Caltrain
Field Hearing of Subcommittee on Railroads, Pipelines, and Hazardous Materials
"Continued Oversight of the California High-Speed Rail"
August 29, 2016

Good morning. Thank you for your attention to this issue and for inviting us to share a local perspective. I'm Jim Harnett. I'm the Executive Director of the Caltrain commuter rail system and the CEO of the San Mateo County Transit District. I'm also a past member of the California High Speed Rail Authority Board of Directors and a former Mayor of Redwood City.

When voters approved Prop 1A in 2008 it wasn't just about connecting the state with high-speed rail, it was also about improving transportation connectivity on existing systems. The measure included significant resources dedicated to upgrading local transportation services to feed the statewide network and to improving mobility options for surrounding communities.

Large-scale, visionary projects like HSR can and should be planned and delivered in a way that prioritizes investments in local improvements, while also making incremental, but significant progress toward the long-term vision.

During my time on the HSR Board, I worked with my colleagues to ensure that this approach would be embraced. The product of those efforts was SB 1029, which appropriated funding for HSR construction in the Central Valley, but also directed over $1 billion for local and regional improvements on the "bookends" in southern California and the Bay Area.

In our case, this State funding is being used to leverage over $1 billion in local, regional and federal funds to upgrade the Caltrain corridor and allow us to deliver more service at a time when our communities need it most.

Caltrain is struggling to accommodate unprecedented regional growth. 2016 marked our sixth consecutive year of record-setting ridership. As Hwy 101 and 280 have become more and more congested, employers have turned to Caltrain as the preferred commute option between San Francisco and Silicon Valley. As a result, our peak hour service is well over 100 percent capacity with ridership on some trains exceeding 125 percent of available seats.

The Caltrain corridor, is arguably the most economically productive area in the State. The communities served by our 51-mile railroad are responsible for 14 percent of the State's GDP, 20 percent of CA tax revenue and are the birthplace of over half of California patents.

However, the region cannot continue to thrive without equipping the 150-year-old rail corridor with a modernized transit system capable of accommodating current and future ridership demand.

Fortunately, with local, state and federal help, Caltrain has been able to advance the Caltrain Modernization Program. The centerpiece of this program is the transformation of the corridor from its

current diesel operations to a system that features high-performance electric trains capable of delivering cleaner, faster, more frequent service to Peninsula communities.

When complete, electrification of Caltrain will be able to serve more riders at more stations. As a result 619,000 vehicle miles traveled will be eliminated every day and the system's emissions will be reduced by 97 percent, eliminating over 176,000 tons of CO2 annually.

Caltrain and HSR have worked with several local, regional and federal partners to secure funding for the Caltrain Modernization Program as an early investment in the high-speed rail system. Six Bay Area funding partners have agreed to commit significant local funds in order to leverage over $700 million in HSR funding and these investments have positioned the project to receive almost $650 million in Federal Transit Administration discretionary grant funds.

Thanks to these commitments, Caltrain was able to authorize contractors to begin design work on the project. The next steps will be construction of the project and the procurement of electric trains; work that will create over $2.5 billion in economic value, including almost 10,000 new jobs during construction.

Meanwhile, we are also collaborating with the High-Speed Rail Authority as it begins the environmental process for additional improvements that will be needed to equip the corridor to accommodate HSR service. When HSR is extended north of San Jose, Caltrain and HSR will share the corridor and operate on a blended system to San Francisco. The planning and design of these improvements will be carefully considered to ensure that impacts on surrounding neighborhoods are minimized and benefits are realized.

Thank you.

BOARD OF DIRECTORS 2016

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September 26, 2016

The Honorable Jeff Denham, Chairman
Subcommittee on Railroads, Pipelines, and Hazardous Materials
2251 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Denham,

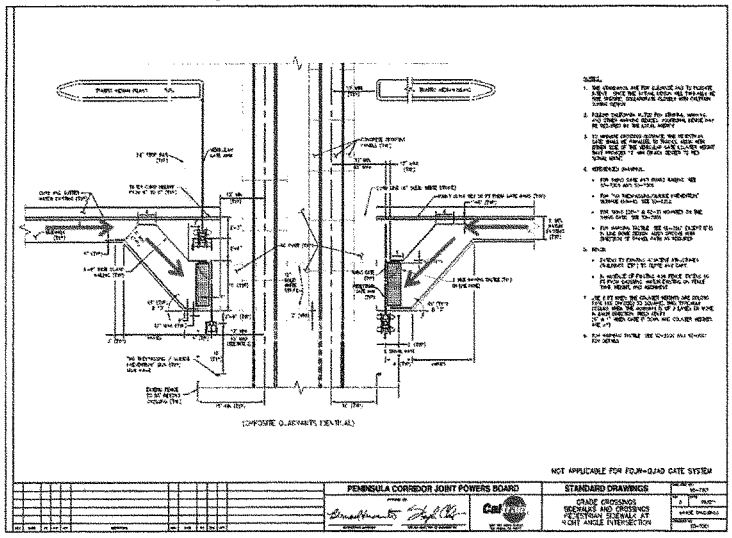
Thank you for inviting me to testify before the Subcommittee on Railroads, Pipelines, and Hazardous Materials on August 29, 2016 in San Francisco.

Per your letter dated September 7, 2016, I am providing written responses to your questions.

Please provide for the record any plans or illustrations you have of how pedestrians will be restricted from going around the quad gates of an at-grade crossing.

Caltrain has a strong commitment to safety that centers around a comprehensive, ongoing program that focuses on the "Three E's" of railroad safety – Education, Engineering and Enforcement. Specific to your question about how pedestrian movement is restricted at a quad gate, the below drawing illustrates a channelized pedestrian warning gate. Pedestrians are channeled, with guard rails and fencing, towards the pedestrian warning gate arm. At that location, they can safely wait while the trains passes. Once the train has passed, the pedestrian warning gate arm is raised. The drawing shows only one side of the grade crossing but a similar design is included on the opposite side of the grade crossing.

Channelized Pedestrian Warning Gates:



In order for California High-Speed Rail to utilize the Caltrain corridor, do you anticipate requiring additional track or right of way to be acquired? If so, where would additional right-of-way be required , and is the State planning on using eminent domain to secure additional right-of-way?

The California High-Speed Rail Authority (CHSRA) is the lead agency for the Blended System project which is currently in the early stages of environmental review. Any right-of-way needs for the Blended System project will be identified in the EIR/EIS. CHSRA expects to release the draft EIR/EIS in 2017. CHSRA has the authority to use eminent domain to acquire property interests but that is typically considered a last resort. For specific information about right-of-ways needs associated with the Blended System project, please contact the CHSRA federal liaison, Giles Giovinazzi (Giles.Giovinazzi@dot.ca.gov).

Regards,

Jim Hartnett
Caltrain Executive Director

cc: Peninsula Corridor Joint Powers Boards
T&I Railroads, Pipelines, and Hazardous Materials Subcommittee Ranking Member
Reps. Pelosi, Eshoo, Lofgren, and Honda

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Testimony of Stuart M. Flashman, J.D., Ph.D.
Legal Issues Surrounding Funding for California's High-Speed Rail Project

Testimony before the U.S. House of Representatives Committee on Transportation and Infrastructure, Subcommittee on Railroads, Pipelines, and Hazardous Material

Field Hearing – Continued Oversight of California High-Speed Rail
Monday, August 29, 2016
San Francisco, California

Chairman Denham,

Thank you for the opportunity to testify before your subcommittee today.

Let me start by making it clear that my testimony today is not intended to criticize high-speed rail as a concept. Certainly the examples of high-speed rail implementation in other countries have shown that it can provide significant benefits to the public transportation system, and that, if implemented prudently, it can be a cost-effective way of improving transportation efficiency while reducing greenhouse gas production. However, I am afraid that here in California too much has been promised and too little is being delivered.

My testimony will focus on the legal issues affecting funding California's high-speed rail project using State of California funds, and the associated risks to the federal treasury in the California High-Speed Rail Authority's (CHSRA) continued use of Federal Railroad Administration (FRA) administered federal grant funds to pay for construction and other activities.

As you know, CHSRA has received approximately $3.5 billion in grant funds through the Federal High-Speed Intercity Passenger Rail (HSIPR) program. In addition to that federal funding, CHSRA has potential access to $9 billion of state general obligation bond funds authorized by the 2008 Proposition 1A (Prop 1A) bond measure, and a continuing appropriation of 25% of the proceeds from California's greenhouse gas emissions "Cap and Trade" auction proceeds. While Prop 1A envisaged that CHSRA would secure private capital funding for its high-speed rail project, up to this point no private funds have been committed, nor is any private funding visible for the foreseeable future.

In 2012, CHSRA's Final Business Plan expected to receive $20 billion in federal funds between 2015 and 2021. Of course, no additional federal funds have been appropriated after 2010. The 2016 Business Plan now hypothesizes $10 billion in cap and trade auction proceeds revenue. I will return to the availability of that revenue at the end of my testimony.

Each of the two California governmental funding sources for CHSRA's project has legal issues associated with it, and I will discuss each of them in turn,

I. THE USE OF PROPOSITION 1A BOND FUNDS TO FINANCE CONSTRUCTION OF THE HIGH-SPEED RAIL SYSTEM.

While Prop. 1A allocated up to $9 billion for CHSRA's high-speed rail project[1], It placed numerous restrictions on the use of those funds. In *California High-Speed Rail Authority et al. v. Superior Court ("CHSRA v. Sup. Ct.")* (2014) 228 Cal.App.4th 676, California's Third District Court of Appeal referred to those restrictions as a "financial straitjacket," and stated that the restrictions were intended by the voters who approved the measure "to ensure the financial viability of the project." (*Id.* at p. 706.)

One set of restrictions, which were addressed in that court case, are contained in Streets & Highways Code §2704.08 subdivisions (c) and (d). These provisions place stringent procedural hurdles in front of CHSRA before it can spend bond funds on construction of its high-speed rail system. The other, which creates substantive requirements for the high-speed rail system to be constructed using bond funds, is contained in Streets & Highways Code §2704.09. It has at this point been addressed at the trial court level in the case *Tos et al. v. California High-Speed Rail Authority et al.*, Sacramento County Superior Court Case No. 34-2011-00113919-CU-WM-GDS, judgment entered March 22, 2016. That judgment is now final and binding on the parties involved. A copy of that judgment is attached hereto as Exhibit A for the Committee's reference.

Prop 1A's procedural requirements on using bond funds for high-speed rail construction involve the preparation and approval of two successive funding plans, a first preliminary funding plan and a second final funding plan, for the high-speed rail corridor or "usable segment"[2] to which the funds would be applied.

In the first, preliminary, funding plan, which must be completed before CHSRA seeks an appropriation of bond funds for construction, CHSRA is required to Identify all sources of funding to be invested in the corridor/segment, including their expected time of receipt based on expected commitments, authorizations, agreements, allocations, or other means. In addition, CHSRA is required to make a series of certifications. These include:

- That construction of the corridor/segment can be completed as proposed in the plan;

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[1] Prop 1A also allocated $950,000,000 for "connectivity" grants to assist in funding other transportation projects that would improve the high-speed rail project's integration into California's transportation network.

[2] A usable segment is defined in Prop 1A as a segment of a corridor that contains at least two high-speed rail stations.

- That the corridor/segment [when complete] would be suitable and ready for high-speed train operation;
- That one or more passenger service providers can begin using the tracks or stations for passenger train service;
- That CHSRA's passenger service on the corridor/segment would not require and local, state, or federal operating subsidy;
- That CHSRA has completed all necessary project-level environmental clearances necessary to proceed to construction.

CHSRA completed its first preliminary funding plan for a segment it designated as the "Initial Operating Segment", which would extend either from San Jose to Bakersfield (IOS-North) or from Merced to Burbank (IOS-South), in the Spring of 2012. A lawsuit challenged that plan. In *CHSRA v. Sup. Ct.*, the court of appeal ruled that approval of a preliminary funding plan was not a final action or determination, and therefore the objections based on noncompliance with Prop 1A's requirements were not yet ripe for adjudication.

The second, final funding plan requires similar, but more detailed, information about the corridor/segment, including the estimated full cost for its construction (included the estimated escalation of costs during construction and appropriate reserves) and the sources of all funds to be used in the construction and when those funds will be received, based on authorizations, allocations, or other commitments or assurances received. In addition, it requires one or more reports, prepared by one or more independent financial consultants, evaluating the plan and indicating that:

- The corridor/segment can be completed as proposed in the funding plan;
- When completed, it would be suitable and ready for high-speed train operation;
- Upon completion, one or more passenger service providers can begin using the tracks or stations for passenger rail service;
- The passenger rail service to be provided by CHSRA will not require an operating subsidy.

The consultant report(s) must also discuss the risks and risk mitigation strategies proposed in the plan.

The final funding plan, including the consultant report(s), must be provided to the State Director of Finance and to the Chairperson of the Joint Legislative Budget Committee. Within sixty days, the Director of Finance, after receiving comments from the Joint Legislative Budget Committee, is to make a determination, accompanied by findings, of whether the funding plan is likely to be successfully completed. If so, CHSRA may then enter into commitments to expend the bond funds. According to the court of appeal's decision in *CHSRA v. Sup. Ct.*, only at this point would a legal challenge for noncompliance with Prop. 1A's requirements ripen.

The substantive requirements that Prop. 1A places on the system to be built using bond funds, contained in §2704.09, specify the following:

1. The trains must be electrically powered and capable of "sustained maximum revenue operating speeds of no less than 200 miles per hour."

2. Each of the various corridors to be served has an associated maximum nonstop service travel time. Of special note are that the travel time between San Francisco (Transbay Transit Center) and San Jose (Diridon Station) must be no more than 30 minutes, and that between San Francisco and Los Angeles (Union Station) must be no more than 2 hours and 40 minutes.
3. Achievable headway (time between successive trains) must be no more than five minutes.
4. There must be no more than 24 stations on the entire system.
5. There can be no station between Gilroy and Merced
6. Trains must be able to bypass any station at full operating speed.
7. No change of train can be required to traverse an entire corridor.
8. The alignments chosen by CHSRA must be financially feasible.
9. The system must minimize urban sprawl and environmental impacts
10. To the extent possible, the system is to preserve wildlife corridors and mitigate any impacts on animal migration.

Prop 1A also requires that bond funds provide no more than 50% of the construction funding for any corridor/usable segment. (§2704.08(a).) In its decision in the *Tos et al.* lawsuit, the trial court noted that there appeared, at present, to be substantial questions about whether CHSRA's proposed system could meet requirements numbers 2 and 3. It also found, however, that until CHSRA was ready to begin using bond funds for construction, these issues were not yet ripe for determination by the courts.

The 2012 legislative appropriations for the high-speed rail system, contained in SB 1029, included $3.2 billion of FRA federal grant funds and $2.6 billion of Prop. 1A construction funds to complete a segment running from Madera to Bakersfield Also included in SB 1029 was 1.1 billion of Prop. 1A HSR construction funds to be used for improvements to conventional rail segments in the "bookends" between San Jose and San Francisco and between Burbank and Los Angeles. These appropriations were intended to pave the way for high-speed rail service in these areas. The Legislature specifically required that expenditure of these funds required prior preparation of the funding plans required by §2704.08.

This latter requirements is particularly problematic for the San Francisco – San Jose segment, where $600 million is proposed to help fund Caltrain's electrification project (with an estimated current total cost of approximately $2.1 billion) because §2704.08 requires that the segment be fully funded, and that, when completed, it be suitable and ready for high-speed train operation. Not only is Caltrain's electrification project not yet fully funded, but it is undeniable that without further track and other improvements, it will not be suitable and ready for high-speed train operation. These deficiencies would appear to make it improper for Prop. 1A construction funds to be used until there is full funding available to complete a high-speed rail ready segment. Those funds are nowhere to be found.

Caltrain's governing body, the Peninsula Corridor Joint Powers Board ("PCJPB"), with the cooperation of CHSRA, has now proposed a legislative "fix" for this problem. The proposed legislation, AB 1889, attempts to redefine (or in the bill's word "clarify") the language in Prop. 1A so that "suitable and ready for high-speed train operation" would

mean only that the segment would be suitable and ready for high-speed train operation *once additional improvements were funded and constructed*. As an attorney who has spent considerable time studying the provisions of the California Constitution (Article XVI, Section 1) that govern the use of voter-approved bond funds, this bill appears to violate those constitutional requirements unless its proposed changes are first submitted to and ratified by California's voters.

II THE USE OF "CAP AND TRADE" AUCTION FUNDS TO FINANCE HIGH-SPEED RAIL CONSTRUCTION.

In 2006, the California Legislature passed AB 32, the California Global Warming Solutions Act of 2006. Among other things, that act called upon the California Air Resources Board ("ARB") to devise market-based compliance mechanisms to supplement direct regulation of greenhouse gas ("GHG") generation.[3] In 2012, ARB finalized its decision to implement a market-based compliance mechanism as a "cap and trade" system. The system, which has also been implemented by the European Union and some other countries and states, is analogous to a system devised as part of the federal Clean Air Act. Under the cap and trade system, ARB establishes a "cap" on statewide GHG production. This cap is then allocated among the various sources of GHG emissions. For each source, there are financial penalties for exceeding the cap. However, a source can purchase additional allocations of GHG production, either from ARB or from other GHG producers who have either reduced their production of GHG or had previously purchased an additional allocation. The allocations are periodically auctioned off by ARB. Thus the idea is that as the cap is gradually lowered, GHG production will follow suit. In addition, the auctions will generate revenue that can be used to fund activities that will directly reduce GHG concentrations, either by reducing GHG production (e.g., developing more efficient cars, or ways of producing energy that produce less, or no GHG emissions), or by "sequestration" – that is, taking more GHG out of the atmosphere – for example by tree planting).

As you may be aware, the cap and trade auctions have been challenged as being a tax on GHG producers that does not meet the California Constitution's requirements for enacting a tax measure. That challenge is now pending in California's Third District Court of Appeal. In addition a more specific legal challenge has been filed, focused on ARB's decision to identify CHSRA's high-speed rail construction as an acceptable use of funds collected through the cap and trade auctions. That challenge is based on ARB's failure to take into account the many millions of tons of GHG released during the manufacture of the cement being used in the high-speed rail construction. The lawsuit alleges that, because of that cement production, building the high-speed rail system will actually result in a net *increase* in GHG emissions until far beyond AB 32's target date of 2020, a result directly contrary to the intent of AB 32.

Finally, it must be noted that in between the legal uncertainty clouding the cap and trade system, the fact that the current legislative authorization for that system will expire in

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[3] Greenhouse gas (GHG) is a shorthand used to designate various gaseous air constituents that absorb solar radiation and prevent its from leaving the earth. These gases contribute to the "greenhouse effect" where the Earth's overall temperature increases, causing global climate change. While there are numerous contributing greenhouse gases, the largest single contributor is carbon dioxide.

2020, with the Legislature thus far unwilling to extend it[4], and the economic downturn of the "Great Recession," which in itself greatly reduced California's GHG emissions, recent cap and trade auctions have produced only meager amounts of revenue for the State. In the last two auctions, only approximately $18 million was produced. While the Legislature has approved a continuing appropriation of 25% of cap and trade revenue to the high-speed rail project, the revenue provided by the last two auctions amounted to only $4.5 million – a drop in the bucket compared to the billions the system will require for the construction of even an initial usable segment. This makes CHSRA current estimate of receiving $10 billion in cap and trade auction revenue appear highly unrealistic, even if it is found legally defensible.

In short, CHSRA has, at the moment, no credible source of state funding to match its current federal HSIPR grants. I will leave it to CHSRA and its supporters to explain where that money will be found.

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[4] Both nationally and internationally, momentum appears to be shifting towards revenue-neutral carbon taxes, where the proceeds collected are returned to the public and the business community in the form of lower tax rates and rebates. This would, of course, eliminate that tax revenue as a source for high-speed rail capital funding.

Exhibit A

KAMALA D. HARRIS
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FILED ~~ENDORSED~~
MAR 2 2 2016
By S. Lee, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

JOHN TOS, AARON FUKUDA; AND COUNTY OF KINGS, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA, Petitioners, v. **CALIFORNIA HIGH SPEED RAIL AUTHORITY; JEFF MORALES, CEO OF THE CHSRA; GOVERNOR JERRY BROWN; STATE TREASURER, BILL LOCKYER; DIRECTOR OF FINANCE, ANA MATASANTOS; SECRETARY (ACTING) OF BUSINESS, TRANSPORTATION AND HOUSING, BRIAN KELLY; STATE CONTROLLER, JOHN CHIANG; AND DOES I-V, INCLUSIVE,** Respondents.	Case No. 34-2011-00113919 **~~[PROPOSED]~~ ORDER DENYING PETITION AND COMPLAINT** Hearing Date: February 11, 2016 Dept: 31 Judge: The Honorable Michael P. Kenny Action Filed: February 14, 2011

FILED BY FAX

The motion of Plaintiffs and Petitioners JOHN TOS, AARON FUKUDA, and COUNTY OF KINGS for judgment on petition and complaint came on regularly for hearing on February 11, 2016, in Department 31 of the Superior Court, the Honorable Michael P. Kenny presiding.

Plaintiffs and Petitioners JOHN TOS, AARON FUKUDA, and COUNTY OF KINGS appeared by counsel Stuart M. Flashman, Esq. and Michael J. Brady, Esq. Defendants CALIFORNIA HIGH SPEED RAIL AUTHORITY (hereinafter, "AUTHORITY"); JEFF MORALES, CEO OF THE AUTHORITY; GOVERNOR JERRY BROWN; STATE TREASURER JOHN CHIANG; DIRECTOR OF FINANCE MICHAEL COHEN; BRIAN KELLY, SECRETARY OF THE CALIFORNIA STATE TRANSPORTATION AGENCY; and STATE CONTROLLER BETTY YEE; appeared by Deputy Attorney General Sharon L. O'Grady and Supervising Deputy Attorney Tamar Pachter. After hearing argument, the Court took the matter under submission on February 11, 2016.

The Court, having considered the papers, the Second Amended Administrative Record, matters as to which the Court has taken judicial notice as set forth herein, and the arguments of the parties at hearing, issued its Ruling on Submitted Matter: Motion for Judgment on Petition and Complaint (hereinafter "Ruling") on March 4, 2016, a copy of which is attached to this order as Exhibit A, and is incorporated fully herein by this reference.

Now, therefor, and for the reasons set forth in the Ruling, it is hereby ordered as follows:

1. Plaintiffs' and Petitioners' Request for Judicial Notice, filed November 2, 2015, is GRANTED as to items 2, 3 and 4, and DENIED as to items 1 and 5.

2. The Petition and Complaint are denied.

IT IS SO ORDERED

DATED: 3/22/16

Honorable Michael P. Kenny
Judge of the Superior Court

Approved as to form:

Dated: March 15, 2016

Stuart M. Flashman

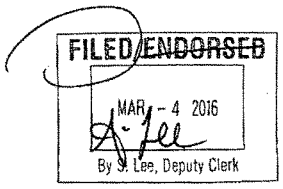
Michael J. Brady
Attorney for Plaintiffs and Petitioners

Dated: 3/17/2016

Raymond L. Carlson
Attorneys for amicus Curiae Kings County Water District

SA2011103275

Exhibit A



SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

JOHN TOS, AARON FUKUDA, and COUNTY OF KINGS, **Plaintiffs and Petitioners,** **v.** **CALIFORNIA HIGH SPEED RAIL AUTHORITY *et al.*,** **Defendants and Respondents.**	**Case No. 34-2011-00113919-CU-WM-GDS** **RULING ON SUBMITTED MATTER: MOTION FOR JUDGMENT ON PETITION AND COMPLAINT**

I. Factual And Procedural Background

The Legislature enacted the California High-Speed Rail Act in 1996. (Pub. Util. Code, § 185000, et seq)(hereinafter, the "Rail Act.") The Rail Act created the High-Speed Rail Authority (hereinafter, the "Authority") (Pub. Util. Code § 185012) and tasked it with developing and implementing an intercity high-speed rail service (hereinafter, the "HSR system"). (Pub. Util. Code §§ 185030, 185032.)

In 2008, Proposition 1A was placed before California voters to enact the "Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century." The Official Voter Information Guide for November 4, 2008 summarized the decision whether to enact Proposition 1A as,

> "[t]o provide Californians a safe, convenient, affordable, and reliable alternative to driving and high gas prices; to provide good-paying jobs and

> improve California's economy while reducing air pollution, global warming greenhouse gases, and our dependence on foreign oil, *shall $9.95 billion in bonds be issued* to establish a clean, efficient high-speed train service linking Southern California, the Sacramento/San Joaquin Valley, and the San Francisco Bay Area, with at least 90 percent of bond funds spent for specific projects, with private and public matching funds required, including, but not limited to, federal funds, funds from revenue bonds, and local funds, and all bond funds subject to independent audits?" (AG 000003)(emphasis added.)

The Official Voter Information Guide further indicated that a "yes" vote meant "[t]he state could sell $9.95 billion in general obligation bonds, to plan and to partially fund the construction of a high-speed train system in California, and to make capital improvements to state and local rail services." A "no" vote meant "[t]he state could not sell $9.95 billion in general obligation bonds for these purposes." (AG 000003.) The description of Proposition 1A and arguments for and against it, were followed by "an Overview of State Bond Debt." (AG 000008-9.)

California voters approved Proposition 1A (hereinafter, The "Bond Act"). (Streets and Highways Code §§ 2704, *et seq.*[1]) The Bond Act is in Division 3 of the Streets and Highways Code, which Division concerns the "Apportionment and Expenditure of Highway Funds."

The Bond Act identifies requirements the HSR system must meet prior to receipt of the funds, including that the HSR system "shall be designed to achieve the following characteristics…

> (b) Maximum nonstop service travel times for each corridor that shall not exceed the following:
>
> (1) San Francisco-Los Angeles Union Station: two hours, 40 minutes.
>
> (2) Oakland-Los Angeles Union Station: two hours, 40 minutes.
>
> (3) San Francisco-San Jose: 30 minutes…
>
> (c) Achievable operating headway (time between successive trains) shall be five minutes or less…

[1] All further statutory references are to the Streets and Highways Code, unless otherwise indicated.

> (g) In order to reduce impacts on communities and the environment, the alignment for the high-speed train system shall follow existing transportation or utility corridors to the extent feasible and shall be financially viable, as determined by the authority." (§ 2704.09.)

The Authority must prepare, publish, adopt, and submit to the Legislature, a business plan, which they must review and resubmit every two years. (Pub. Util. Code § 185033.) Before committing appropriated bond funds to construction, the Authority must approve and submit a detailed funding plan concerning the specific corridor or usable segment, to the Director of Finance, the peer review group established pursuant to section 185035 of the Public Utilities Code, and the policy committees with jurisdiction over transportation matters and the fiscal committees in both houses of the legislature. (§ 2704.08.) The funding plan must certify that the Authority has completed all necessary project level environmental clearances necessary to proceed to construction. (§ 2704.08, subd. (c)(2)(k).) The Authority cannot commit bond funds to construction until the Director of Finance concludes that "the plan is likely to be successfully implemented as proposed." (§ 2704.08, subd. (d).)

In April 2012 and April 2014, the Authority approved, published, and submitted its 2012 and 2014 Business Plans to the Legislature. (AG 001931, AG 011047.) These plans indicate that Phase I of the system is a "blended system" in which conventional and HSR trains will share tracks, stations, and other facilities. (AG 001936, 001940, 001941, 001948, 001971-001974, 011055, 011060, 011062.) In 2013, the Legislature passed SB 557 (enacting § 2704.76) which provides,

> "(b) Funds appropriated pursuant to Items 2660-104-6043, 2660-304-6043, and 2665-104-6043 of Section 2.00 of the Budget Act of 2012, to the extent those funds are allocated to projects in the San Francisco to San Jose segment, shall be used solely to implement a rail system in that segment that *primarily consists of a two-track blended system* to be used jointly by high-speed rail trains and Peninsula Joint Powers Board commuter trains (Caltrain), with the system to be contained substantially within the existing Caltrain right-of-way." (emphasis added.)

Consequently, the funds appropriated for the San Francisco to San Jose segment are for construction of a blended system.

Plaintiffs filed this matter on November 14, 2011, claiming that the high-speed rail project is not eligible to receive Bond Act funds. Accordingly, Plaintiffs allege it would be illegal to give Defendants these funds to construct the subject high-speed rail system in the Central Valley.

One of Plaintiffs' initially filed claims was previously resolved in this matter via separate trial and appeal to the Third District Court of Appeal. (*California High-Speed Rail Authority v. Superior Court* (2014) 228 Cal.App.4th 676.) The Court of Appeal directed this Court to enter judgment, "validating the authorization of the bond issuance…Further challenges by real parties in interest to the use of bond proceeds are premature." The court also ordered this Court to vacate its ruling requiring the Authority to redo the preliminary section 2704.08, subdivision (c) funding plan after the Legislature appropriated the bond funds. (*Id.* at 684.) In ruling on that matter, the Court of Appeal noted, "[j]udicial intrusion into legislative appropriations risks violating the separation of powers doctrine." (*Id.* at 714.) With regard to Proposition 1A, the court found, "the Bond Act does not curtail the exercise of the Legislature's plenary authority to appropriate."

The remaining claims in this matter are, per letter stipulation dated January 8, 2014:

1. "The currently proposed high-speed rail system does not comply with the requirements of Streets and Highways Code § 2704.09 in that it cannot meet the statutory requirement that the high-speed train system to [sic] be constructed so that the maximum nonstop service travel time for San Francisco – Los Angeles Union Station shall not exceed 2 hours and 40 minutes;
2. The currently proposed high-speed rail system does not comply with the requirements of Streets and Highways Code § 2704.09 in that it will not be financially viable as determined by the Authority and the requirement under § 2704.08(c)(2)(J) that the planned passenger service by the Authority in the corridors or usable segments thereof will not require a local, state, or federal operating subsidy;
3. The currently proposed "blended rail" system is substantially different from

the system whose required characteristics were described in Proposition 1A, and the legislative appropriation towards constructing this system is therefore an attempt to modify the terms of that ballot measure in violation of article XVI, section 1 of the California Constitution and therefore must be declared invalid;

4. If Plaintiffs are successful in any of the above three claims, Proposition 1A bond funds will be unavailable to construct any portion of the Authority's currently-proposed high-speed rail system. Under those circumstances, the $3.3 billion of federal grant funds will not allow construction of a useful project. Therefore, under those circumstances the Authority's expenditure of any portion of the $3.3 billion of federal grant funds towards the construction of the currently-proposed system would be a wasteful use of public funds and would therefore be subject to being enjoined under Code of Civil Procedure § 526a."

The parties briefed these issues and then presented oral argument on February 11, 2015. At the close of the hearing, the Court took the matter under submission.

II. Standard of Review

This case involves numerous claims concerning the compliance of the HSR system as currently proposed with the requirements of the Bond Act.

The interpretation of statutes in such a case is an issue of law on which the court exercises its independent judgment. (See, *Sacks v. City of Oakland* (2010) 190 Cal.App.4th 1070, 1082.) In exercising its independent judgment, the Court is guided by certain established principles of statutory construction, which may be summarized as follows.

The primary task of the court in interpreting a statute is to ascertain and effectuate the intent of the Legislature. (See, *Hsu v. Abbara* (1995) 9 Cal.4th 863, 871.) As this matter involves the interpretation of statutes approved by the voters, "ascertaining the will of the electorate is paramount." (*Cal. High-Speed Rail Authority*, 228 Cal.App.4th at 708.) "Statutes adopted by the voters must be construed liberally in favor of the people's right to exercise their reserved powers, and it is the duty of the courts to jealously guard the right of the people by resolving doubts in favor of the use of those reserved powers." (*Id.*)

However, whether a statute is enacted by the voters or passed by the Legislature, the same

basic rules of statutory construction apply. (*Id.*) The starting point for the task of interpretation is the wording of the statute itself, because these words generally provide the most reliable indicator of legislative, or elector, intent. (See, *Murphy v. Kenneth Cole Productions* (2007) 40 Cal.4th 1094, 1103.) The language used in a statute is to be interpreted in accordance with its usual, ordinary meaning, and if there is no ambiguity in the statute, the plain meaning prevails. (See, *People v. Snook* (1997) 16 Cal.4th 1210, 1215.) The court should give meaning to every word of a statute if possible, avoiding constructions that render any words surplus or a nullity. (See, *Reno v. Baird* (1998) 18 Cal.4th 640, 658.) Statutes should be interpreted so as to give each word some operative effect. (See, *Imperial Merchant Services, Inc. v. Hunt* (2009) 47 Cal.4th 381, 390.)

Beyond that, the Court must consider particular statutory language in the context of the entire statutory scheme in which it appears, construing words in context, keeping in mind the nature and obvious purpose of the statute where the language appears, and harmonizing the various parts of the statutory enactment by considering particular clauses or sections in the context of the whole. (See, *People v. Whaley* (2008) 160 Cal.App.4th 779, 793.)

To the extent this matter requires review of administrative actions taken by the Authority, the Court must determine whether those actions constitute an abuse of discretion, namely whether the action was arbitrary, capricious, entirely lacking in evidentiary support, unlawful, or procedurally unfair. (See *Khan v. Los Angeles City Employees' Retirement System* (2010) 187 Cal.App.4th 98, 105-06.)

III. Discussion

A. Requests for Judicial Notice

Plaintiffs have filed a request for judicial notice concerning five documents. Defendants have filed objections to items 1 and 5.

Item 1 requests the Court take judicial notice of the fact that, "beginning in 2011,

Congressional appropriations have provided no funding for the California High-Speed Rail Authority or its project, or any other high-speed rail project, and in fact have rescinded prior funding for high-speed rail projects." Defendants object on the basis that this is irrelevant to any material issue in this matter, contains evidence that was not before the Authority when it made its decision (pursuant to *Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559), and that the proffered fact is not the proper subject of judicial notice. The Court agrees, based on its analysis herein, that this fact is not relevant to any material issue currently ripe for review in this matter.

Item 5 requests judicial notice of mapping by the California Department of Transportation of California urban areas, which mapping has been integrated into a set of online databases accessible through Google Earth. Defendants object on the basis that the maps are irrelevant to any material issue, the evidence was not properly before the Authority, the evidence is proffered to contradict the Authority's experts, Plaintiffs failed to comply with Rule of Court 3.1306, subdivision (c), and Plaintiffs improperly seek judicial notice of the accuracy of the maps. The Court agrees, based on its analysis herein, that this information is not relevant to any issue that is currently ripe for review.

The request for judicial notice is **GRANTED** as to items 2, 3, and 4, and **DENIED** as to items 1 and 5.

B. The Purpose of the Bond Act

Central to this matter is the answer to the following question: Does the Bond Act simply provide bond financing, conditional upon the satisfaction of certain design criteria, or does it reach further, providing the sole authority by which a high-speed rail system may be constructed by the Authority (regardless of the source of funding)? Plaintiffs urge this Court to read section 2704.04, subdivision (a) as a declaration of the Legislature's intent that any HSR system built in

California must comply with the Bond Act's pre-requisites. Defendants argue, instead, that the Bond Act only prohibits the use of Bond Act funds until the Authority has proven compliance with the system described therein. Consequently, Defendants contend, to the extent the Authority is moving forward with an HSR system utilizing non-Bond Act funds, there is no statutory prohibition to these actions.

In analyzing the meaning of the Bond Act, the Court looks first to the plain language of the relevant statutes. Section 2704.04, subdivision (a) provides,

> "It is the intent of the Legislature by enacting this chapter and of the people of California by approving the bond measure pursuant to this chapter to initiate the construction of a high-speed train system that connects the San Francisco Transbay Terminal to Los Angeles Union Station and Anaheim, and links the state's major population centers, including Sacramento, the San Francisco Bay Area, the Central Valley, Los Angeles, the Inland Empire, Orange County, and San Diego consistent with the authority's certified environmental impact reports of November 2005 and July 9, 2008."

Section 2704.04 is located within Streets and Highways Code Division 3, "Apportionment and Expenditure of Highway Funds," Chapter 20, "Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century," Article 2, "High-Speed Passenger Train Financing Program." Section 2704.04 is titled, "Legislative intent; Use of net proceeds from sale of bonds." All of these titles indicate that the Bond Act, including section 2704.04, addresses the *use of funds* to construct a HSR system.

Such an interpretation is supported by the information provided to the voters to assist in determining whether to vote "yes" or "no" on Proposition 1A. The summary in the voter information guide indicated that the voters needed to decide, "*...shall $9.95 billion in bonds be issued* to establish a clean, efficient high-speed train service linking Southern California, the Sacramento/San Joaquin Valley, and the San Francisco Bay Area..." (AG 000003)(emphasis added.) The descriptions of what a "yes" or "no" vote would mean indicate that the result of the vote would determine whether the state could sell $9.95 billion in general obligation bonds in

order to construct an HSR system. (*Id.*) There is no discussion that a "yes" vote on Proposition 1A prohibits the Legislature from utilizing its appropriation powers to construct an HSR system using funds other than the $9.95 billion in general obligation bonds.

As the Court of Appeal held in the prior trial on this matter, "[j]udicial intrusion into legislative appropriations risks violating the separation of powers doctrine." (*Cal. High-Speed Rail Authority*, 228 Cal.App.4th at 714.) "If there is any doubt as to the Legislature's power to act in any given case, the doubt should be resolved in favor of the Legislature's action." (*Id.*) The Court of Appeal further noted, "the only judicial standard commensurate with the separation of powers doctrine is one of strict construction to ensure that restrictions on the Legislature are in fact imposed by the people rather than by the courts in the guise of interpretation." (*Id.*)(citing *Schabarum v. California Legislature* (1998) 60 Cal.App.4th 1205, 1218.) With regard to Proposition 1A, the court read the plain language of the statute and found, "the Bond Act does not curtail the exercise of the Legislature's plenary authority to appropriate."[2]

There is nothing in the Bond Act or in the voter information guide that dictates the Legislature cannot use non-Bond Act funds to construct or plan an HSR system absent a showing that the system complies with the Bond Act requirements. The Bond Act did not establish the Authority, the Rail Act did. The Bond Act is, consequently, not the source of the Authority's responsibilities or "powers," which are described in the Rail Act, via Public Utilities Code section 185034. The Bond Act is simply that: a Bond Act. The Authority may not spend any of the $9.95 billion in general obligation bonds absent a showing of compliance with the numerous requirements described in the Bond Act. Additionally, all parties agree that Bond Act proceeds have not been used in the challenged segments and are not currently at issue, as the Authority has

[2] While this ruling concerned whether the Legislature was prohibited from appropriating funds in the absence of a preliminary funding plan, the absence of a clear directive to abdicate appropriation power with regard to non-bond sources leads to the same conclusion here.

not prepared the required funding plans pursuant to section 2704.08. (Opening Brief, p. 3.)

The Court finds that the Bond Act describes criteria that must be met in order to finance an HSR system with Bond Act funds. The Bond Act does not set "restrictions on what type of system [the Authority] could construct regardless of its funding source." (Opening Brief, p. 1.)

It is with this determination in mind that the Court now turns to Plaintiffs' challenges to the HSR system as currently proposed.

C. The Blended System

i. *2005 and 2008 EIRs*

Plaintiffs argue the proposed "blended system" is not consistent with the Bond Act because it fails to comply with the Authority's certified Environmental Impact Reports of November 2005 and July 9, 2008, as required by section 2704.04, subdivision (a).[3] Because the Legislature has mandated the blended system via SB 557 (enacting § 2704.76), neither party argues that this issue is not ripe for review. Accordingly, the Court considers whether the statutorily mandated blended system violates the Bond Act as approved by the voters.

Section 2704.04, subdivision (a) provides,

> "It is the intent of the Legislature by enacting this chapter and of the people of California by approving the bond measure pursuant to this chapter to initiate the construction of a high-speed train system that connects the San Francisco Transbay Terminal to Los Angeles Union Station and Anaheim, and links the state's major population centers, including Sacramento, the San Francisco Bay Area, the Central Valley, Los Angeles, the Inland Empire, Orange County, and San Diego *consistent with the authority's certified environmental impact reports of November 2005 and July 9, 2008.*" (emphasis added.)

This section, Plaintiffs argue, evidences the Legislature and voters' intent and expectations that the HSR system will be consistent with the 2005 and 2008 EIRs. The 2005 EIR includes cross-sections for the "Caltrain Shared-Use Alignment" showing four tracks throughout

[3] Defendants maintain Plaintiffs may not argue that the blended system fails to comply because this claim is not squarely within the January 8, 2014 stipulated issues. The Court disagrees and finds that number 3 may be interpreted broadly to allow for Plaintiffs' arguments that the blended system cannot comply with the Bond Act.

the San Francisco to San Jose segment. (H7.011060-H7.011074.) The 2008 EIR includes a set of typical cross sections for the San Francisco to San Jose segment, again showing four tracks. (H7.013158 – H7.013175.) The 2008 EIR further provides that "[t]he Draft Program EIR.EIS analyzes one alignment option between San Francisco and San Jose along the San Francisco Peninsula that would utilize the Caltrain rail right-of-way, and share tracks with express Caltrain commuter rail services…The alignment between San Francisco and San Jose *is assumed to have 4-tracks*, with the two middle tracks being shared by Caltrain and HST and the outer tracks used by Caltrain…" (H7.014212)(emphasis added.)

However, in 2012, the Authority modified the 2005 and 2008 EIRs via the 2012 Bay Area to Central Valley Partially Revised Final Program EIR. An initial blended system (two-tracks shared by Caltrain and HSR trains) in the San Francisco Peninsula is discussed at length in this 2012 EIR. (H7.018234-35, H7.018239-40.) The issue before the Court is whether section 2704.04, subdivision (a) requires the four-track alignment discussed in the 2005 and 2008 EIRs, or whether section 2704.04 must be read in conjunction with section 2704.06 to allow for project modification via subsequently modified environmental studies.

Section 2704.06 is titled, "Availability of proceeds for planning and capital costs," and provides,

> "The net proceeds received from the sale of nine billion dollars ($9,000,000,000) principal amount of bonds authorized pursuant to this chapter, upon appropriation by the Legislature in the annual Budget Act, shall be available, and subject to those conditions and criteria that the Legislature may provide by statute, for (a) planning the high-speed train system and (b) capital costs set forth in subdivision (c) of Section 2704.04, consistent with the authority's certified environmental impact reports of November 2005 and July 9, 2008, *as subsequently modified pursuant to environmental studies conducted by the authority.*" (emphasis added.)

Defendants argue section 2704.04, subdivision (a) must be read in conjunction with 2704.06 in order to give meaning to the words "*as subsequently modified pursuant to environmental studies conducted by the authority.*" To hold that the HSR system can only qualify

for Bond Act funds if it meets the design proposed by the 2005 and 2008 EIRS would read the modification language out of section 2704.06. Defendants also contend the Legislature has statutory and Constitutional authority to amend the Bond Act to require a blended system.

When considering a statutory scheme, the Court should not construe individual statutes in isolation, but instead should view the Act as a whole. (See, *People v. Whaley* (2008) 160 Cal.App.4th 779, 793.) The court should give meaning to every word of a statute if possible, avoiding constructions that render any words surplus or a nullity. (See, *Reno v. Baird* (1998) 18 Cal.4th 640, 658.) Statutes should be interpreted so as to give each word some operative effect. (See, *Imperial Merchant Services, Inc. v. Hunt* (2009) 47 Cal.4th 381, 390.)

Plaintiffs argued at length during oral argument that section 2704.06 refers only to the receipt of bond funds, while section 2704.04 provides the general legislative intent that the HSR system comply with the 2005 and 2008 EIRs. Because the schematics included in the 2005 and 2008 EIRs refer only to four-track systems, Plaintiffs argue, a two-track blended system violates the general Legislative intent limiting any HSR system the Authority completes. This argument is contrary to the Court's finding above that the Bond Act concerns itself solely with the use of Bond Act funds. As sections 2704.04 and 2704.06 must be read in the context of the use of Bond Act funds, they must be read together, giving meaning to every word.

Section 2704.06 allows expenditure of Bond Act funds on a system that is "consistent with the authority's certified environmental impact reports of November 2005 and July 9, 2008, *as subsequently modified pursuant to environmental studies conducted by the authority.*" To read section 2704.04 as urged by Plaintiffs means that Bond Act funds *cannot* be expended on a system that complies with a modified EIR if it is not consistent with the 2005 and 2008 EIRs. Essentially, Plaintiffs ask this Court to read the words "as subsequently modified pursuant to environmental studies conducted by the authority" out of the Bond Act. Such a reading is

contrary to the direction that the Court should avoid constructions that render any words surplus or a nullity.

Reading section 2704.04 and 2704.06 together, the Court finds that the Authority may use Bond Act funds to construct an HSR system that is compliant with the 2005 and 2008 EIRs, as subsequently modified. As the 2012 Bay Area to Central Valley Partially Revised Final Program EIR modified the subject EIRs to provide for a two-track blended system, in conformance with the provision of section 2704.06, the requirement of a blended system via SB 557 does not violate the Bond Act.

ii. *Minimum headway requirement and trip-time between San Francisco and San Jose*

Defendants argue Plaintiffs' claims concerning the blended system headway and trip-time requirements are not ripe. The Court will consider both claims together.

Plaintiffs contend the blended system violates the Bond Act because it cannot meet the system requirements for operating headways. Section 2704.09, subdivision (c) provides, that the "[t]he high-speed train system to be constructed pursuant to this chapter shall be designed to achieve the following characteristics… Achievable operating headway (time between successive trains) shall be five minutes or less." Plaintiffs argue the blended system can only accommodate a maximum of ten trains per hour, four of which would be HSR trains. (AG 013028, 013074.) Accordingly, there is a fifteen-minute delay between HSR trains on the blended system, in violation of section 2704.09, subdivision (c).

Defendants argue that this, and the remainder of Plaintiffs' arguments are not yet ripe, as the system design Plaintiffs challenge, "today is not final, but continues to evolve and change" making the claims not reviewable. (Opposition, p. 13.) Defendants further contend, "[w]hen the Authority commits bond funds to a specific plan pursuant to section 2704.08, subdivision (d), the

validity of those expenditures will be reviewable." (*Id.*) Defendants argue, "[t]he only final design decisions the Authority has made involve the Merced-Fresno and Fresno-Bakersfield segments of the system, which Plaintiffs do not challenge." (*Id.* at p. 15, FN 11.)

The evidence before the Court indicates that the blended HSR system, as currently proposed, can accommodate ten trains in an hour. This allows for one train approximately every six minutes, with a delay between HSR trains of approximately fifteen minutes. (AG 013028, 013074.) Plaintiffs argue this demonstrates that the Authority cannot currently prove the blended HSR system complies with Section 2704.09, subdivision (c)'s headway requirement. Defendants contend that these claims are premature, and, that if they are ripe, the definition of "train" includes non-HSR trains, and with imminent technology, the system will be able to improve its six-minute headway to the required five-minute headway. Consequently, Defendants argue the system is "designed to achieve" five minute or less operating headway between trains, even though these trains are not all HSR trains.

With regard to operating time between San Francisco and San Jose, section 2704.09, subdivision (b)(3) requires the system to be designed to achieve maximum nonstop service travel time that shall not exceed thirty minutes. In January 2013, the Authority's consultants performed a simulation analysis to determine whether the blended system could currently comply with this requirement. (AG 022899.) Using a travel speed of 110 mph, the memorandum concluded the nonstop travel time would be 32 minutes. Using a speed of 125 mph, the travel time could be reduced to 30 minutes. Via a revised February 7, 2013 memorandum, the Authority's consultants concluded that, using a travel time of 110 mph the nonstop travel time would be 30 minutes. (AG 022912.) There is no clear explanation for this change in conclusions, other than an email exchange requesting that the consultants disregard the 125 mph proposal. (AG 022909.)

On February 11, 2013, this 30-minute travel time at 110 mph was presented to the

Authority via a memorandum. The memorandum indicated that "[f]urther improvements may be achievable through improved train performance, use of tilt technology, more aggressive alignments and higher maximum speeds." (AG 017435.)

Most troubling about this study is the fact that the Authority relied on a 4th and King Caltrain Station as the location in San Francisco from which the travel time should be calculated. (AG 013030, AG 022903, AG 013038.) The Authority acknowledged this fact during oral argument on this matter, and argued that section 2704.09, subdivisions (b)(1) and (3) do not require a specific San Francisco terminal, only requiring that the calculations be between "San Francisco" and the indicated destination. Plaintiffs argue the Bond Act requires the trip to start at the San Francisco Transbay Terminal, a location that is 1.3 miles further north, thus extending the time it will take a train to complete the required distance.

Section 2704.04, subdivision (b)(2) provides that "Phase 1 of the high-speed train project is the corridor of the high-speed train system between San Francisco Transbay Terminal and Los Angeles Union Station and Anaheim." Subdivision (b)(3) identifies specific high-speed train corridors, and lists, "(B) San Francisco Transbay Terminal to San Jose to Fresno." Subdivision (a) identifies that the purpose behind the Bond Act is "construction of a high-speed train system that connects the San Francisco Transbay Terminal to Los Angeles Union Station and Anaheim..." Consequently, it appears that the intent of the Bond Act was for the system to extend, in San Francisco, to the Transbay Terminal, not stop 1.3 miles short at a 4th and King Caltrain Station. This specific language and indication of intent does not conflict with a general referral to "San Francisco" in section 2704.09 subdivision (b)(1) and (3). It is reasonable to interpret this reference to "San Francisco" as indicating the Transbay Terminal identified as the intended San Francisco location in section 2704.04.

It appears, at this time, that the Authority does not have sufficient evidence to prove the

blended system can currently comply with all of the Bond Act requirements, as they have not provided analysis of trip time to the San Francisco Transbay Terminal, and cannot yet achieve five-minute headways (even allowing for the definition of "train" to include non-HSR trains). However, as Plaintiffs acknowledged during oral argument, the Authority *may be able* to accomplish these objectives at some point in the future. This project is an ongoing, dynamic, changing project. As the Court of Appeal noted, "[b]ecause there is no final funding plan and the design of the system remains in flux…we simply cannot determine whether the project will comply with the specific requirements of the Bond Act…" (*California High-Speed Rail Authority*, 228 Cal.App.4th at 703.)

There is no evidence currently before the Court that the blended system *will not* comply with the Bond Act system requirements. Although Plaintiffs have raised compelling questions about potential future compliance, the Authority has not yet submitted a funding plan pursuant to section 2704.08, subdivisions (c) and (d), seeking to expend Bond Act funds. Thus, the issue of the project's compliance with the Bond Act is not ripe for review. Currently, all that is before the Court is conjecture as to what system the Authority will present in its request for Bond Act funds. This is insufficient for the requested relief.

D. Plaintiffs' remaining claims

Plaintiffs' remaining claims include:

1. The Authority has not proven that, pursuant to section 2704.09, subdivision (g), the HSR system will be financially viable.
2. The HSR system as proposed cannot meet the San Francisco-Los Angeles travel time required by the Bond Act.

For the reasons discussed above, the Court finds these claims are also not ripe for review. As the Court determined first in this ruling, the Bond Act is just that: a bond act providing for bond financing of an HSR system. Until the Authority attempts to utilize Bond Act funds, pursuant to the prerequisites identified in section 2704.08, the financial viability and San

Francisco-Los Angeles corridor designs remain in flux. The record provides, for example, that the Authority continues to focus on system trip time and that the analysis will change as the project changes. (AG 017554, AG 017556.)

As this Court has previously indicated, the key question at this time is whether the Authority has taken any action that precludes compliance with the Bond Act. Plaintiffs have failed to provide evidence at this time that the Authority has taken such an action. This is because, as of today, there are still too many unknown variables, and in absence of a funding plan, too many assumptions that must be made as to what the Authority's final decisions will be. While Plaintiffs have produced evidence that raises substantial concerns about the currently proposed system's ability to ultimately comply with the Bond Act, the Authority has yet to produce the funding plan that makes those issues ripe for review. Thus, Plaintiffs' claims must be denied.

IV. Conclusion

Via Proposition 1A, the voters enacted the "Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century." This Bond Act provided for financing of a high-speed rail system, to be designed and constructed by the High-Speed Rail Authority (established by the 1996 Rail Act). In order to qualify for financing, the Authority must be able to prove the system it proposes can attain certain standards, including performance times, and financial viability. While the blended system does not appear to have been initially considered by the 2005 and 2008 EIRs, section 2704.06 allows for a system that complies with the EIRs, *as modified.* The blended system complies with the 2012 modification, thus complying with the Bond Act requirements.

As of the date of this ruling, the Authority has not submitted a section 2704.08 funding plan, and consequently has not sought to utilize any Bond Act funds on the challenged system. To the extent non-Bond Act funds are being expended, Plaintiffs have not identified any basis upon which this Court should enjoin the use of said funds. The HSR system is not final, but instead

continues to evolve and change. As such, the issue of whether the HSR system complies with the Bond Act is not ripe for review.

The Petition and Complaint are **DENIED**.

In accordance with Local Rule 1.06, counsel for Defendants is directed to prepare an order denying the petition and complaint, incorporating this ruling as an exhibit to the order, and a separate judgment; submit them to counsel for Plaintiffs for approval as to form in accordance with Rule of Court 3.1312(a); and thereafter submit them to the Court for signature and entry in accordance with Rule of Court 3.1312(b).

DATED: March 4, 2016

Judge MICHAEL P. KENNY
Superior Court of California,
County of Sacramento

CERTIFICATE OF SERVICE BY MAILING
(C.C.P. Sec. 1013a(4))

I, the undersigned deputy clerk of the Superior Court of California, County of Sacramento, do declare under penalty of perjury that I did this date place a copy of the above-entitled **RULING ON SUBMITTED MATTER** in envelopes addressed to each of the parties, or their counsel of record as stated below, with sufficient postage affixed thereto and deposited the same in the United States Post Office at 720 9th Street, Sacramento, California.

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Superior Court of California,
County of Sacramento

Dated: March 4, 2016

By: S. LEE
Deputy Clerk

Testimony of Robbie Hunter
Congressional Hearing on High Speed Rail
San Francisco, Monday, August 29, 2016

Good Morning.

My name is Robbie Hunter, and I am the President of the State Building and Construction Trades Council of California. I am an iron worker by trade, and spent 27 years working in the field building skyscrapers and bridges throughout California.

Our council represents 400,000 skilled and trained California construction workers, including 48,000 apprentices that have graduated or the equivalent from California high schools.

Each and every one of these workers work for private construction companies building our harbors, airports, water treatment plants, freeways, transit systems, dams, as well as the vast majority of major private commercial and residential projects throughout the state of California.

These contractors need a streamlined, highly trained, competent work force to compete, using the least amount of workers, building projects in the shortest time frame, done once, done right, under the lowest bid.

The work force that we represent drives the economy of California. They set aside a portion of their hourly wage for their pension and medical benefits and even in retirement are not a burden on the state or federal taxpayers.

And I am very proud to report that at this very moment, several hundred of these workers, who are residents of the Central Valley are on the job building the high speed rail in the Central Valley.

This is an area where we have had 60 percent unemployment among construction workers and traditionally has had some of the highest unemployment statewide in the general population.

Now these workers are building the High Speed Rail system that will transform the Valley and all of California.

Of course, I am very happy that all those workers are earning paychecks, supporting their families, and driving the economy.

But I am most gratified that they are creating a third mode of mass transportation, something that California desperately needs right now, and that will greatly benefit the people of this state for generations to come.

Furthermore, the project is being built efficiently and economically. The best value bids for the first construction packages have ranged from 13 to 45 percent below the engineer's estimates, resulting in savings of hundreds of millions of dollars so far.

Decades from now, I believe Californians will look back with gratitude at the vision of this generation's leaders, whose foresight resulted in their magnificent, efficient high speed rail system, less congestion at roads and airports, and a healthier environment.

We simply cannot afford to not build this vitally important infrastructure project.

California's transportation system is already overtaxed and our population will pass 50 million by mid-century.

Doing nothing would ultimately cost far more than building this essential system today.

High speed rail is the only viable means of making sure our transportation infrastructure can meet our growing demand.

Continuing to build more and more freeways and airports would be more expensive, more environmentally damaging, and less efficient for moving millions more Californians up and down the state.

In fact, the non-partisan Legislative Analyst's office has reported that the project would, and I am quoting "alleviate the need to build 3,000 miles of freeway, and five airport runways and 90 new departure gates—at a cost of nearly $100 billion—that would otherwise be necessary to accommodate interstate travel by 2030."

By saving $100 billion, the project pays for itself!

To remove any doubt, just look at the spectacular success of high speed rail around the world.

We have learned from places like Spain, France, China, Japan and many other countries that high speed rail is the most efficient and preferred mode of transportation between population centers 100 to 500 miles apart.

That is precisely the corridor California's high speed rail will serve.

High speed rail is working breathtakingly well everywhere else in the world. California needs its great benefits even more.

As the 2008 ballot summary language pointed out, high speed rail will provide long-distance commuters with a safe, convenient, affordable, clean and reliable alternative to driving and to high gas prices.

It will reduce traffic congestion on the state's highways and at the state's airports.

It will reduce California's dependence on foreign oil.

It will reduce air pollution and global warming greenhouse gases.

It will provide fast, time-saving connections between California's major population hubs.

And it will bring all those thousands of good jobs to working families across the state.

We cannot afford to fall further behind the rest of the world. Our state needs the economic, environmental, and quality-of-life benefits of a third mode of a clean, fast mass transit system to meet the needs of our children and grandchildren just as generations before us paid for and built the infrastructure that has supported today's population and economy.

Thank you very much.

State Building and Construction Trades Council of California

ROBBIE HUNTER
PRESIDENT

J. TOM BACA
SECRETARY-TREASURER

Established 1901
Chartered by
BUILDING AND CONSTRUCTION TRADES DEPARTMENT
AFL - CIO

Robbie Hunter, President, State Building and Construction Trades Council of California

Question # 1 - How many members with the Building Trades are working on California High Speed Rail projects?

Over 560 workers have been dispatched from various individual trades' hiring halls. 82% of all workers on the jobsite are from the Central Valley with the vast majority of work hours being performed by Valley residents. Some have completed the segment of work that they were hired to construct and around 500 are on site working at this time.
Please see attached informational documents.

Question # 2 - How many local Central Valley construction jobs have been created by this project?

As stated above, 82% are Central Valley residents. All of these workers were dispatched from hiring halls based in the Central Valley and therefore the vast majority of workers would be from Fresno, Merced, and Tulare or other Central Valley communities.

Question # 3 - Regarding those construction jobs created in the Central Valley, I mentioned at the hearing my concern that a person could be living in a hotel room or be a new temporary resident to the area using a local ZIP code, claiming to be "residents" of the Central Valley. What process are you taking to ensure these Central Valley construction jobs are actually residents of the Central Valley and not temporary residents?

For a worker to be classified as a Central Valley resident, before they are dispatched from the hiring hall to a High Speed Rail job site, he must have a home address on his driver's license with the appropriate zip code to prove that he is a resident of the Central Valley.

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California High Speed Rail Authority
Construction Package 1 Design-Build Project

All Prevailing Wage Workers
And Hours by County
Total Number of Hours Worked

Reporting Period
Cumulative Totals up to June 30, 2016

State	County	Sum of Hours Worked	Sum of Workers
	Alameda	1,277.00	11
	Calaveras	363.50	1
Nevada	Clark	397.50	3
	Contra Costa	136.00	1
	El Dorado	492.00	4
	Fresno	130,732.90	237
	Kern	311.50	1
	Kings	3,152.00	2
Idaho	Kootenai	2,540.00	1
	Los Angeles	4,509.55	14
	Madera	19,793.50	41
	Marin	210.00	1
Montana	Meagher	2,409.50	1
	Merced	4,368.50	11
	Orange	1,936.12	7
Washington	Pierce	139.00	1
	Placer	302.00	3
	Riverside	24.00	1
	Sacramento	1,854.50	12
	San Benito	26.50	2
	San Bernadino	1,990.25	12
	San Diego	1,516.50	1
	San Joaquin	410.50	8
	San Mateo	2,127.00	2
	Santa Clara	166.00	5
	Shasta	147.50	1
	Solano	105.25	2
Washington	Spokane	541.00	1
	Stanislaus	3,924.00	18
	Sutter	31.00	1
	Tehama	25.00	1
	Tulare	7,701.00	18
	Tuolumne	19.00	1
	Yolo	182.00	1
	Grand Total	193,861.57	427

National Targeted Hiring Initiative Workers Summary
Total of Category One & Two and Disadvantaged Workers[1, 2, 3]
Hours Worked Per County

Reporting Period
Cumulative Totals up to June 30, 2016

State	County	Sum of Hours Worked	Sum of Workers
	Alameda	1,277.00	11
	Calaveras	363.50	1
Nevada	Clark	397.50	3
	Contra Costa	136.00	1
	El Dorado	492.00	4
	Fresno	41,833.15	84
	Kings	2,976.00	1
Idaho	Kootenai	2,540.00	1
	Los Angeles	2,896.05	11
	Madera	11,374.50	24
	Marin	210.00	1
	Merced	606.00	2
	Orange	1,936.12	7
Washington	Pierce	139.00	1
	Placer	302.00	3
	Riverside	24.00	1
	Sacramento	1,491.50	9
	San Benito	26.50	2
	San Bernadino	1,452.25	4
	San Diego	1,516.50	1
	San Joaquin	277.00	6
	San Mateo	40.00	1
	Santa Clara	82.00	3
	Solano	105.25	2
Washington	Spokane	541.00	1
	Stanislaus	2,310.50	11
	Sutter	31.00	1
	Tehama	25.00	1
	Tulare	3,431.25	8
	Tuolumne	19.00	1
	Yolo	182.00	1
	Grand Total	79033.57	208

Source Documents: CP 1 Certified Payroll Records (CPRs) submitted by TPZP, JV active and approved subcontractors regardless of tier.

Disclaimer: [a] The Information provided in this report is based from CPRs sent by TPZP, JV from the beginning of project work to June 30, 2016 for CP 1 Project.
[b] All Counties listed are located in California, unless stated otherwise.

National Targeted Worker means an individual whose primary place of residence is within an Economically Disadvantaged Area (Category 1) or an Extremely Economically Disadvantaged Area (Category 2) in the United States, or a Disadvantaged Worker (see below).

[1] **Category 1** refers to workers who reside in economically disadvantaged area with zip codes that includes a census tract or portion thereof in which median annual household income is between $32,000 and $40,000 per year.

[2] **Category 2** refers to workers who reside in extremely economically disadvantaged area with zip codes that includes a census tract or portion thereof in which the median annual household income is less than $32,000 per year.

[3] **Disadvantaged worker** means an individual who, prior to commencing work on the project, resides in an Economically Disadvantaged area (Category 1) or Extremely Economically Disadvantaged area (Category 2), and faces at least one of the following barriers to employment: being a veteran, being homeless, being custodial single parent, receiving public assistance, lacking a GED or high school diploma, having a criminal record or other involvement with the criminal justice system, suffering from chronic unemployment, emancipated from foster care system, or being an apprentice with less than 15% of the apprenticeship hours required to graduate to journey level in a program as described in Section 1.2. *Note that a Disadvantaged Worker classification also entails that the worker resides in a Category 1 or Category 2 area, meaning they are counted within the two categories for employee count and craft hour reporting purposes.*

California High Speed Rail Authority
Construction Package 2-3 Design-Build Project

All Prevailing Wage Workers
And Hours by County
Total Number of Hours Worked

Reporting Period
Cumulative Totals up to June 30, 2016

County	Sum of Hours Worked	Sum of Worker
Alameda	63.75	3
Calaveras	110.5	1
Contra Costa	21.5	1
El Dorado	57.75	1
Fresno	5153.25	44
Kings	3.5	1
Madera	3524.5	12
Merced	32.5	1
Placer	56	1
San Bernardino	28	1
San Joaquin	86	1
San Luis Obispo	53.5	1
Santa Barbara	11	1
Santa Clara	4.5	1
Solano	1183	8
Stanislaus	386	4
Grand Total	10775.25	82

National Targeted Hiring Initiative Workers Summary
Total of Category One & Two and Disadvantaged Workers[1, 2, 3]
Hours Worked Per County

Reporting Period
Cumulative Totals up to June 30, 2016

County	Sum of Hours Worked	Sum of Worker
Alameda	8	1
Contra Costa	21.5	1
Fresno	3943.5	33
Kings	3.5	1
Madera	3516.5	11
Merced	32.5	1
Placer	56	1
San Bernardino	28	1
San Joaquin	86	1
Santa Barbara	11	1
Solano	719.5	2
Stanislaus	386	4
Grand Total	8812	58

Source Documents: CP 2-3 Certified Payroll Records (CPRs) submitted by DFJV active and approved subcontractors regardless of tier.

Disclaimer: [a] The information provided in this report is based from CPRs sent by DFJV from the beginning of project work to June 30, 2016 for CP-2-3 Project.
[b] All Counties listed are located in California, unless stated otherwise.

National Targeted Worker means an individual whose primary place of residence is within an Economically Disadvantaged Area (Category 1) or an Extremely Economically Disadvantaged Area (Category 2) in the United States, or a Disadvantaged Worker (see below).

[1] **Category 1** refers to workers who reside in economically disadvantaged area with zip codes that includes a census tract or portion thereof in which median annual household income is between $32,000 and $40,000 per year.

[2] **Category 2** refers to workers who reside in extremely economically disadvantaged area with zip codes that includes a census tract or portion thereof in which the median annual household income is less than $32,000 per year.

[3] **Disadvantaged worker** means an individual who, prior to commencing work on the project, resides in an Economically Disadvantaged area (Category 1) or Extremely Economically Disadvantaged area (Category 2), and faces at least one of the following barriers to employment: being a veteran, being homeless, being custodial single parent, receiving public assistance, lacking a GED or high school diploma, having a criminal record or other involvement with the criminal justice system, suffering from chronic unemployment, emancipated from foster care system, or being an apprentice with less than 15% of the apprenticeship hours required to graduate to journey level in a program as described in Section 1.2. *Note that a Disadvantaged Worker classification also entails that the worker resides in a Category 1 or Category 2 area, meaning they are counted within the two categories for employee count and craft hour reporting purposes.*

California High-Speed Rail Authority

Dispatched Workers

Period Ending August 31, 2016

Construction Package-1 Dispatched Worker Totals

Total Number of Workers	470
Total Labor Craft Hours To Date	203,217.37
Total NTHI Hours To Date	141,760.50
Total Disadvantage Hours To Date	49,564.00
Journeymen hours	182,193.37
Apprentice hours	21,024.00

Construction Package 2-3 Dispatched Worker Totals

Total Number of Workers	91
Total Labor Craft Hours To Date	12,299.50
Total NTHI Hours To Date	10,521.75
Total Disadvantage Hours To Date	-
Journeymen hours	12,299.50
Apprentice hours	-

Disclaimer: Reports reflects all reported dispatched workers listed on certified payroll recors submitted by the prime contractors and received by the Authority as of August 30, 2016