

## California High-Speed Rail Peer Review Group

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April 1, 2022

The Honorable Toni G. Atkins  
Senate President Pro Tem  
State Capitol Building  
Room 205  
Sacramento, CA 95814

The Honorable Anthony Rendon  
Speaker of the Assembly  
State Capitol Building  
Room 219  
Sacramento, CA 95814

The Honorable Scott Wilk  
Senate Republican Leader  
State Capitol Building  
Room 305  
Sacramento, CA 95814

The Honorable James Gallagher  
Assembly Republican Leader  
State Capitol Building  
Room 4740  
Sacramento, CA 95814

Dear Honorable Members:

The Peer Review Group created by Proposition 1A is required to report to the Legislature on selected reports and documents produced by the California High-Speed Rail Authority. In this letter we provide our comments on the Draft 2022 Business Plan issued by the Authority on February 8, 2022.

The Draft 2022 Business Plan does not differ greatly from the Final 2020 Business Plan. The Authority still proposes to complete the required ARRA scope of work (track from Madera to Poplar Avenue) and add links from Merced to Madera and from Poplar Avenue to Bakersfield. This section would be electrified and operated in conjunction with closely coordinated connections at Merced to the existing "San Joaquins" and ACE trains. Trains would be operated under lease of the line to the San Joaquin Joint Powers Authority (SJJPA), which would bear any responsibility for subsidies that would be involved. In addition, the Authority would complete all environmental clearances for the entire Phase I system (Anaheim to San Francisco) and would

commission detailed investigations and engineering analysis of the future tunnels in the Pacheco Pass area and would more clearly define alignment and property acquisition issues in the Merced/Madera and Poplar Avenue/Bakersfield links.

We would like to highlight several positive elements in the Draft Plan. First, legislation passed in the 117<sup>th</sup> Congress contains significant funding for investment in infrastructure. Although the amounts available specifically for high-speed rail (and California's share) are not defined, there could well be additional Federal grant funding available for the project. Additional funding might also be available in a revised Build Back Better bill if Congress passes it in some form. In any event, though, there is little likelihood that California's share of any future federal funding will relieve the Legislature of the need to find added funding from state, local or private sources.

Second, we are getting a clearer picture of the severe impact of Covid-19 on the project. Construction has been hindered and management has had to confront the limitations of remote communications. More important, supply chain disruptions and increased demand have touched off cost escalations that are likely to lead to increased project costs, an interaction that may continue for the near future until inflation is brought under control. The conflict in Ukraine may also further disrupt economic activity, especially through increases in energy costs that could feed directly into project costs.

Third, the Authority has made significant progress in completing the environmental clearances for the project. This will clear the decks for more detailed engineering work when funding and guidance are available to extend the project beyond the currently planned Merced to Bakersfield section. As will be discussed below, improved environmental planning has also identified corrective measures that will improve community acceptance, but will add costs to the project.

Fourth, the report details a better and more positive recognition of the importance of connectivity between high-speed rail and local transport systems and the impacts the project will have on local economic development. Improved connectivity is important for the State's transport network, and it highlights the role of supporting agencies, including Caltrans, Caltrain, the SJJPA and ACE, and Metrolink in the Los Angeles area. This also highlights the required role of the state in ensuring that funding for local initiatives to improve connectivity is provided in amounts and timing consistent with the Authority's plans.

Finally, the Authority has begun introducing better management controls including Enterprise Risk Management and Staged Project Development, both of which are meant to give the Authority a better approach to risk assessment and to ensure that all elements of a project or contract are coordinated in time. This has been hard-earned experience; but, together, these should help control future costs and schedules.

Acknowledging that progress has been made, we want to emphasize that a wide range of **uncertainty** about costs and schedules remains. In fact, uncertainty has probably even increased due to the impacts of Covid and inflation.

The cost and schedule experience so far does not yet support optimism about future performance. The average cost increase over initial award value on Construction Packages (CP) 1, 2/3, and 4,

is over 86% and the average schedule time increase is 118%. **These cost overruns do not report the impact of claims that have been filed but not resolved and they do not account for potential future claims that have not yet been filed.** With due regard for the confidentiality of the Authority's negotiating position vis-à-vis their contractors, the Business Plan should contain more discussion and quantification of the Authority's potential exposure to additional contract payments. Although the contracts have been ongoing for 6 to 9 years, ordinary real estate parcels are still only 90% acquired, railroad parcels are only 73% acquired, and Tier 1 parcels (utilities) are only 65% acquired.

**The project budgets presented in the Draft Business Plan are out of date.** The Dashboards that were meant to provide a quarterly indication to the Legislature and the public of construction package status have not been updated since May of 2019. Two project components have had final environmental clearance that led to an updating of their projected costs: the estimated Bakersfield to Palmdale cost increased by 17%, and the Burbank to Los Angeles Union Station section was increased by 116%. In the very recently announced updating of the plans for the section from San Jose to the Central Wye (where the main line meets the branch leading to Merced), the cost was up 40%. These are only part of the picture: the next thorough updating of all costs is not due until the 2023 Project Update Report in Spring of 2023. A positive conclusion is that the process of environmental clarity is yielding a more realistic view of what is actually involved in these components, but the improved realism is expensive.

**There is still no actual bidding or contract management experience with major project components that represent more than half the cost of the project,** including tunneling, electrification, signaling, trackwork, and rolling stock. Without actual bids, existing estimates must be viewed with caution. The recent BART/VTA experience with these types of components on the San Jose connection project has not been encouraging.

The critical organization and funding issues for planning, construction, and operation of the proposed Merced to Bakersfield system remain unresolved. As discussed in our letter on the 2020 Business Plan, the legal issue of whether operation of the service by SJJPA relieves the Authority of the subsidy prohibition in Proposition 1A has not been litigated. Also, the Legislature may want to ask Caltrans to clarify its commitment to the funding required to create the integrated connections at Merced and to support the Merced to Bakersfield services. The aftermath of Covid-19 may well presage a period of unusually rapid cost escalation and schedule prolongment that could take several years to work through the economy and could lead to significant further increases in cost and schedule. In addition, though the impact will be felt much farther in the future, the dramatic impact of Covid-19 on public transport demand may permanently influence passenger demand, a possibility that should be assessed in the upgraded demand modeling the Authority is now undertaking.

We would also like to emphasize several continuing, unresolved issues that have appeared from Business Plan to Business Plan.

**Legislative oversight has not improved.** Given the immense size of the project and its importance to the state's future finances and its transport network, the Legislature needs timely and accurate information about the management and planning for the project. This could be

done, for example, through an internal Inspector General at the Authority that closely coordinates and provides support to the LAO. Creation of a focused legislative oversight committee has also been discussed. If the project is to continue, addressing the oversight issue through adequate staffing with required expertise and continuity should be a priority for the Legislature.

Despite the possibility for additional federal funding, **overall project funding remains inadequate and unstable making effective management extremely difficult. In addition, the Authority has no clear guidance from the Legislature on the next steps in the project.**

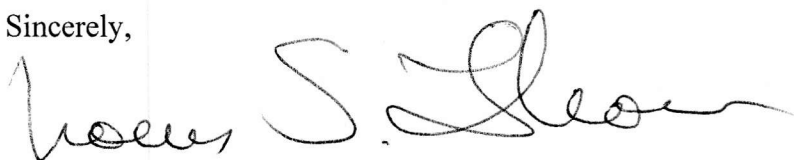
Funding uncertainty and lack of legislative commitment have been true since the project's inception but are gaining added importance as the gap between proposed scope and available funding emerges. In our letter on the 2020 Business Plan, we indicated that completion of the proposed link between Merced and Bakersfield with existing funding will require a favorable outcome of existing contracts and future bidding. Even with a realistic share of new Federal funding, the project cannot get outside the Central Valley without added state or local funding from sources not yet identified.

In summary, the Authority and the state have come a long way and have learned a lot, but there is still a long way to go before the Legislature can be confident that it has a clear picture of the cost and schedule of the project.

Please let us know if you need further information or have questions about the information in this letter.

Sincerely

Sincerely,

A handwritten signature in black ink, appearing to read "Louis S. Thompson". The signature is fluid and cursive, with the first name "Louis" written in a smaller, more compact script than the last name "Thompson".

Louis S. Thompson  
Chairman, California High-Speed Rail Peer Review Group

cc: Hon. Lena Gonzalez, Chair, Senate Committee on Transportation  
Hon. Patricia C. Bates, Vice Chair, Senate Committee on Transportation  
Hon. Laura Friedman, Chair, Assembly Transportation Committee  
Hon. Vince Fong, Vice Chair, Assembly Transportation Committee  
Toks Omishakin, Secretary, California State Transportation Agency  
Gabriel Petek, State Legislative Analyst  
Samuel Assefa, Director, Governor's Office of Planning and Research  
Tom Richards, Chairman, California High-Speed Rail Authority  
Brian Kelly, Chief Executive Officer, California High-Speed Rail Authority  
Members, California High-Speed Rail Peer Review Group