

August 22, 2011

The Honorable Joe Simitian
California State Senate
State Capitol, Room 2080
Sacramento, California 95814

The Honorable Richard Gordon
California State Assembly
State Capitol, Room 5175
Sacramento, California 95814

Dear Senator Simitian, and Assemblyman Gordon,

Thank you for your letter of July 24, 2011 in which you asked for the Peer Review Group's reaction to the proposal that you and Representative Eshoo made on April 18, 2011. This proposal argued for a "blended" approach between San Francisco and San Jose in which the initial operation of HSR services would begin with a limited number of HSR trains operating jointly with an electrified Caltrain system essentially within the existing right of way. There would not be major construction of new facilities such as elevated viaducts. You further argued that the HSRA EIR should be consistent with this approach and that plans for any future additions of significant HSR-related capacity on the Peninsula should be excluded from the current EIR and dealt with later, as and when appropriate.

The Peer Review Group had reviewed your joint statement carefully before our July 1 letter to Senator Lowenthal. The thrust of our recommendations included, and was consistent with, the substance of your proposal. We had also discussed this issue in our letter to Roelof van Ark of May 2, 2011 (copies to the Governor and the Legislature) and had made much the same recommendations.

In developing our position, we had a number of considerations:

- HSRA's "full build" proposals on the Peninsula and between Los Angeles and Anaheim had engendered significant local opposition that posed a threat to the schedule and cost of the entire project.
- There appeared to be a significant possibility that a "blended" approach, in which a limited number of high-speed trains (2 to 4 per hour) could be initially operated in conjunction with local rail services (Caltrain in the case of the Peninsula, Metrolink and Amtrak in the case of Los Angeles to Anaheim). This approach could be developed essentially within the existing right-of-way, given investment in electrification and minor capacity enhancements, and thus would be more acceptable to local concerns.
- A "blended" approach would be much less costly at the outset than the "full build" approach, meeting one of the fundamental objectives of efficient investment management, which is to shift investment as far out in time as is consistent with project needs. Given the large capital needs of the project, money saved can obviously be used elsewhere.

- The Group has repeatedly said that the HSRA's demand forecasts are subject to a large range of uncertainty. The Authority's own demand forecasting Peer Review Panel made the same point in its report of July 22, 2011. The "full build" approach is an unnecessary bet that the upper ranges of the demand forecasts are highly likely whereas the "blended" approach would postpone larger investments until demand has been demonstrated by the initial services on the line.
- HSRA has, as yet, no actual experience with construction cost and management. Adopting a blended approach with local agencies would permit a sharing of the planning and management burden in those areas while HSRA could move up the learning curve on the higher speed sections in the Central Valley.
- The current HSRA plans to focus investment solely in the Central Valley assume that new and expanded sources of Federal, State, local and private investment will somehow emerge to fill the large acknowledged gaps in the project's financing, gaps that would grow if the existing construction cost forecasts are optimistic, as the Authority's recent cost analyses suggest. HSRA has not revealed a detailed business model for generating investments from the private sector, and the financial condition of governments at all levels does not encourage optimism about greatly enhanced public finance. If the project is not completed beyond the Central Valley plans, the State would be left with a segment providing marginal service improvement to one million passengers per year whereas shifting some investment into a blended approach at both ends would improve service to 28 million passengers as well as those in the Valley.

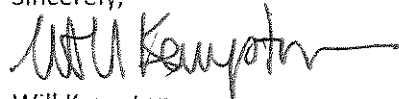
For these reasons, the Group has previously recommended a "shared use" or "phased implementation" approach that is consistent with your proposal. With this said, however, the concept will have no point unless the HSRA acts to shift an appropriate amount of investment into the two end segments. Since the U.S. DOT had agreed with the Central Valley plans and had issued a letter consistent with this position, the Group (with Roelof van Ark participating) had a telephone conference on June 30, 2011 with Roy Kienitz, the Deputy Secretary for Policy and the person who had issued the DOT letter. Mr. Kienitz had read the Group's letter of July 1, 2011. While Mr. Kienitz re-stated DOT's approval of the Central Valley plans, he also indicated that the DOT might be willing to consider a request by the State to reprogram some of the investment into the two end segments if the Authority and the State provided adequate support for such a request. This is why we stated in our July 1 letter that **"... it will be up to the Authority and the State of California to make a convincing case to the Obama Administration ..."** [emphasis in the original], and that **"... the results of an appeal to FRA for a revision of sequencing and spending should be a significant consideration to the Legislature in evaluating the overall risk of the project."**

The "blended" approach makes the assumption that an initial set of HSR services can actually coexist on the same facilities with the local services. We understand that Caltrain and HSRA are in the final stages of a capacity modeling study that would answer the question of the minimum capacity needed for both, and would identify any necessary excursions from the existing right-of-way. We will await the results of this study. We expect that similar studies will be performed on the Los Angeles to Anaheim segment.

With respect to the question you raise about changing the HSRA's EIR to reflect only the initial stages of blended operation, this approach would also be consistent with our recommendation for an EIR/EIS to focus on the initial service levels; however, it would be misleading not to keep in mind that, if future passenger demand does in fact reach the higher amounts forecasted, then capacity additions consistent with HSRA and local operations will eventually be needed. It is possible that Caltrain's electrification EIR, suitably modified, would suffice. Nonetheless, the proper approach to this issue will require legal judgments about the environmental process that we cannot offer.

The Group very much appreciates your recognition of our efforts to assist the Legislature in bringing HSR to the State, but doing so in a way that will minimize costs, reduce avoidable risks and be sensitive to legitimate environmental concerns. Please let us know if we can provide any further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Will Kempton", with a long horizontal flourish extending to the right.

Will Kempton

Chairman, California High-Speed Rail Peer Review Group

cc: Representative Ana Eschoo

Roelef van Ark, Chief Executive Officer, California High-Speed Rail Authority

Members, California High-Speed Rail Peer Review Group