



# community report

November 27, 2014

## THE HIGH-SPEED RAIL AUTHORITY IS MAKING MATERIAL MISREPRESENTATIONS TO THE STATE LEGISLATURE

### The Legislature Requires A Report

Let's give the State Legislature some credit for at least trying to maintain control over the California High-Speed Rail Authority, which is a state agency version of a runaway train. In the 2012 Budget Act, the Legislature imposed an oversight requirement on the Authority, requiring the Authority to submit a "Project Update Report" to the Legislature twice a year. These Update Reports are due on March 1st and November 15th of each year, and the Authority just filed their November 15, 2014 Update.

Here's the problem: the Legislature can't maintain effective oversight over the high speed train project if the High-Speed Rail Authority doesn't submit a complete, accurate, and honest report. Guess what? This latest Update Report misrepresents the project to the Legislature, and hides critical information!

Here is a short summary of the areas in which the Authority's Update Report either exaggerates, or omits, or provides only partial information on key aspects of the proposed high-speed rail project. For a more comprehensive discussion, please read our fuller explanation, following this summary.

### Failures And Deficiencies In The Latest Update Report

The Update Report misrepresents the recent appellate court decision.  
The Update Report disguises the lack of funding for the proposed project.  
The Update Report fails to disclose the lack of environmental clearances.  
The Update Report disguises basic engineering problems.  
The Update Report fails to note basic conflicts with private train traffic.  
Read a more complete discussion below!

### The Latest Project Update - An Award For Best Fiction?

First, the Authority represents that because the Authority "won" the recent court challenge to its compliance with the mandatory requirements of voter-approved Proposition 1A, all the Authority's funding and environmental problems are now behind it. Nothing could be further from the truth. ... *continued*

#### Please Know This: WE APPRECIATE Your Support!

Since 2008, CC-HSR has been working through litigation, lobbying, and public outreach to make sure that the state's proposed High-Speed Rail project does not bring devastating impacts to the San Francisco Peninsula, or to other parts of California. Return go to our web site [www.cc-hsr.org](http://www.cc-hsr.org) to make a donation to support our work.

# cc-hsr community report

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In its recent decision, the appellate court reviewed the FIRST funding plan required by Proposition 1A (which the court called the PRELIMINARY funding plan). The appellate court found that the first funding plan was indeed deficient and defective, in terms of demonstrating the Authority's compliance with the requirements of Proposition 1A. However, the court said that this first funding plan was "preliminary only," and was just meant to provide notice and guidelines to the Legislature, and was not required to show that the Authority was in strict compliance with Proposition 1A.

The court then said, however, that while the challenge to the Authority's compliance with Proposition 1A was premature, the real test would come when the Authority tried actually to spend bond funds. According to the appellate court decision, the Authority cannot spend bond funds until the Authority meets the strict requirements and procedures of the SECOND funding plan. This second funding plan (again, a binding requirement on the Authority) is even more rigorous than the first funding plan. The first funding plan was held to be "advisory to the Legislature." The appellate court said that the second funding plan will demand a demonstration that the strict requirements of Proposition 1A have all been met, including proof of adequate funding and that all the required environmental review has been completed.

In its "happy talk" Report, the Authority also fails to tell the Legislature what the Authority will have to prove before it can begin using bond funds for construction:

**ADEQUATE FUNDING:** Proposition 1A requires that before construction starts, the Authority has to have enough money in the bank or firmly committed to COMPLETE the segment they are planning to build. What segment are they planning to build? A 300-mile segment from Merced to the San Fernando Valley. Its cost? Today, the estimated cost is around \$35 billion. How much cash does the Authority potentially have to build this segment? About \$6 billion. Not even close to what they actually need! Before the Authority can spend Proposition 1A bond funds, the Authority has to satisfy Proposition 1A's adequate funding requirement, which means they must have in hand or reliably identify about \$30 billion that they don't have right now. This was, in fact, what the appellate court held, and one of the main reasons that the appellate court said that the Preliminary Funding Plan was deficient. We doubt you can say, honestly, that the Authority "won" anything but a preliminary skirmish. Currently, there is no prospect that the Authority can actually do what the appellate court said it would have to do to be able to spend bond money. The Authority did NOT tell this to the Legislature in its Update Report.

**ENVIRONMENTAL CLEARANCES:** If the Authority files a second funding plan, and tries to access bond funds for their initial operating segment, the Authority must prove that the Authority has obtained all environmental clearances for the entire 300-mile segment that they plan to construct. They are short about 200 miles at the present time, and this "undone part" of the environmental review is for portions of the route that includes the environmentally sensitive and extremely difficult Tehachapi mountain range. Completing this part of the required environmental review could take years. Again, the Authority did not disclose this difficulty in its Update Report to the Legislature.

# cc-hsr community report

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Other Under-Reported Problems? Let Us Tell You A Few!

**COST INCREASES:** The Authority has also forgotten to update the Legislature on significant cost increases for the project. In fact, the Authority has tried to suppress its own consultant's report that the cost of the Fresno to Bakersfield part of the proposed initial operating segment has increased by an amount of at least \$1 billion - and maybe quite a bit more. There has been no update of the cost of the Initial Operating Segment. Nearly three years ago, it was estimated to cost \$31 billion to construct, but now that figure is probably in the \$35 billion range. On the San Francisco Peninsula, two weeks ago, cost estimates almost doubled! There was no mention of cost increases in the Authority's latest Update Report.

**THE GRADIENT PROBLEM AND THE COVERUP:** In September 2013, the Authority's own consultants and engineers, a well-known and large firm called URS, released a candid and honest report saying that the entire Southern California route via Palmdale was physically impossible under the Authority's plans, because the gradient was too severe and would involve the train plunging down the Tehachapis on the way to San Francisco at a speed of 220 mph!

This design flaw had been spotted two and a half years ago by the Authority's own staff engineer, Frank Vacca. No train in the world could do this safely. Instead, something like a "stair step" approach is required, causing the train to begin a descent, slow, regain its stability, and then descend again. According to the Authority's plans, this "stair step" approach (required for safety) is impossible. Interestingly, the Authority's expert firm was either fired or let go shortly after this honest and critical report.

What does this information about the gradient problem really mean? It means that the entire route from Los Angeles to Bakersfield is not feasible. A new route will have to be picked. Using Highway 5 across the Grapevine would work, as an example, but that route has been rejected by the Authority two times. So . . . six years after the passage of Proposition 1A, the Authority has not even identified a viable route to Southern California.

Don't you think these safety problems are something that the Legislature would be interested in learning about? Don't you think that the failure of the Authority to identify a workable route to Los Angeles should be highlighted? Well, a full disclosure on these design and safety and route identification problems is not featured in the Authority's latest Update Report.

**TRAVEL TIME:** According to Proposition 1A, the Authority cannot legally spend even one dime of bond funds for construction unless the Authority can demonstrate that it can get a passenger from Los Angeles to San Francisco in two hours and forty minutes. The Authority now admits that this is impossible - especially if they have to do a stair step down the Tehachapis and if they have to slow down while going through urban areas of the Central Valley.

No mention of travel time complications in the Update Report to the Legislature!

# cc-hsr community report

## continued

**THE BLENDED SYSTEM AND PRIVATE RAILROADS:** The Authority adopted a so-called “blended system” approach on its own. That wasn’t the approach outlined in Proposition 1A, which is what the voters passed. The esteemed former Chairman of the Authority’s Board of Directors, Judge Quentin Kopp, has filed an official declaration with the courts, saying that what the Authority is now planning is patently illegal.

A “blended system” requires sharing trackage with ordinary commuter rail, instead of having dedicated tracks exclusively for the use of high-speed rail. And of course, a blended system will also interfere with existing freight uses of the railroad right of way. The law provides that construction cannot start until private railroads (Union Pacific and Burlington Northern), whose rights of way are affected by the proposed high-speed rail project, give their written consent, and no such consent has been given, or appears to be forthcoming. When the Authority is asked about this issue, they say simply, “We’re talking.”

Has the Legislature been fully briefed on this issue? The Update Report mentions the problem as a “legal issue,” but fails to disclose that this “legal issue” is clearly a major problem, and that there is no resolution in sight.

### In Conclusion

The Legislature can’t provide effective oversight of the proposed high-speed train project unless the Legislature gets honest, accurate information.

Give the Legislature credit for realizing that they need strong oversight, to make sure that this massive public works project doesn’t turn into a massive boondoggle, as other such projects have. Think about the Bay Bridge, for a San Francisco Bay Area example. But the Authority’s latest “Update” doesn’t actually “update” anyone on the difficulties now facing the project.

This report provides a REAL update from CC-HSR. We hope you find it useful!!

CC-HSR is totally supported by the community, and we truly appreciate your help! Thank you again for your support and assistance for our work!

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