



The City of Burlingame

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November 2, 2010

Mr. Roelof van Ark
Chief Executive Officer
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

RE: HSR, Burlingame Alignment

Dear Mr. van Ark:

This is in response to your letter of September 7, 2010, which in turn responded to my letter of August 26, 2010, which was the latest in a series of letters that we have written to CHSRA stating the concerns of the City of Burlingame with respect to the proposed High Speed Rail Project.

In this letter, I want to emphasize two particular issues that we feel are not being adequately addressed. The first is the inability of our staff, which has been cooperating with your staff, to obtain appropriate detailed technical information that has been requested repeatedly.

The second issue is our concern that decisions about which alternative alignments to carry forward to the Draft Environmental Impact Report ("DEIR") apparently are being made at a staff level, based upon incomplete data, primarily emphasizing cost above other concerns, and potentially in violation of the California Environmental Quality Act ("CEQA"). This issue is related to the first one, because we have been unable to obtain the data upon which such staff decisions supposedly are based.

As to the first concern, I am informed by our Public Works staff that they have had a number of meetings with your engineering staff, and in general the two staffs have good relations. On the other hand, I am also told that we have requested specific information in order to evaluate engineering decisions that are being made by your staff, and have had difficulty getting definitive information. In that regard, attached hereto are copies of letters (the first two of which were previously sent directly to you) from the Burlingame City Council and our Public Works Director, Mr. Syed Murtuza, to the California High Speed Rail Authority

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as well as Peninsula Rail Program, requesting certain detailed information. The letters are dated April 26, 2010, June 25, 2010 and September 23, 2010, and I understand that responses providing technical details have not been received.

Your letter of September 7, 2010, lists certain issues from our previous correspondence, but overlooks the failure by CHSRA to respond to many very specific requests for information. Here are examples from our letters of April 26th and June 25th of data and information that we have requested without reply:

April 26, 2010 letter

- Requested a comprehensive study of noise, vibration and aesthetic impacts including loss of property values from each alternative;
- Requested information regarding construction impacts from the project including how shoo-fly will be done and whether that will impact existing Caltrain service;
- Requested information regarding the freight service.

June 25, 2010 letter

- Requested the noise and vibration studies of existing and projected noise/vibration levels at 100', 200', 500' and 1000' from the railroad corridor for each alternative;
- Requested why the CHSRA chose 300 feet distance for noise impacts, and 200 feet for vibration and why only adjacent properties for visual impacts;
- Requested detailed studies regarding construction impacts to schools, homes and businesses;
- Requested information regarding Caltrain service impacts during construction;
- Requested explanation of significant cost variation between the CHSRA cost estimate and independent cost estimate;
- Requested information regarding the impacts to historic train station buildings as well as auto dealerships;
- Requested specific traffic and parking studies for the proposed HST station in Millbrae which may have significant potential impacts to properties in north Burlingame;
- Requested 3-Dimensional graphical rendering of the proposed project alternatives.

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Our second issue concerns the Supplemental Alternatives Analysis Report dated August 2010. This appears to be a working document that will be used to shape the alternatives that are being analyzed in the DEIR for the Peninsula alignment. It is the object of much of the requested information in the attached letters.

As we all know, the analysis of alternatives is at the heart of CEQA, and many court cases have stated this doctrine. It is completely inappropriate to eliminate alternatives that may reduce environmental impacts at this point in the analysis. Alternatives should be carried through to the DEIR where the entire analysis can be circulated to the public, and public comments can be made.

In this regard, the Preliminary Alternatives Analysis Report, dated April 2010, stated that four alternatives for the Burlingame alignment (Subsections 3A and 3B) would be carried forward for analysis in the DEIR. These were for Subsection 3A: Aerial Viaduct, At Grade, Open Trench and Covered Trench/Tunnel; and for Subsection 3B: Aerial Viaduct, Open Trench, Covered Trench/Tunnel. The Supplemental Alternatives Analysis Report, however, eliminates the Covered Trench/Tunnel in each Subsection.

The only explanation for the elimination of the Covered Trench/Tunnel is as follows:

“The Covered Trench/Tunnel option is impracticable due to major constructability issues, surface disruption to surface land uses, additional right-of-way requirements, much greater construction risk, high cost factors, and lengthy construction schedules and construction impacts. The Covered Trench/Tunnel option also has a greater ROW requirement for construction than the Open Trench option and requires significant ventilation and life safety features.”

These all appear to be *engineering and cost* concerns. They are not *environmental* issues, and there is no supporting data from which one could conclude that this option is infeasible in the CEQA sense of the term (in fact, this supporting data is exactly what is being requested in the aforementioned City letters).

Thus, to give a specific example, the recently certified program EIR admits that Noise and Vibration Impacts are a significant (and at a program level, unmitigated, impact). The Supplemental Alternatives Analysis Report states, for example, for Section 3B (page 4-20) that such impacts are lower for the Covered Trench/Tunnel than for the Open Trench, lower for the Open Trench than for the At Grade, and lower for the At Grade than for the Aerial Viaduct – yet only the Open Trench and Aerial Viaduct alternatives are proposed to be carried forward. This is faulty CEQA analysis. Since the Covered Trench/Tunnel option could potentially mitigate the significant environmental impacts of Noise and Vibration (which is a major issue, as you know, to Peninsula cities), it must be carried forward in the Draft Project EIR.

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At this stage of the CEQA process it is completely inappropriate to eliminate an alternative that may mitigate potentially significant environmental impacts based solely on costs and related engineering considerations. The Covered Trench/Tunnel option must be carried through in the DEIR analysis, or the resulting Final EIR will be clearly defective for its failure to consider alternatives that would mitigate potentially significant environmental impacts.

In summary, it is far too early in the process to decide that the Covered Trench/Tunnel option is infeasible or is otherwise impracticable. In any event, any such decision must be based on substantial evidence in the record as a whole. To date, we have received no such evidence and are not aware that it even exists. Accordingly, we request that all such studies, evidence and analyses, technical reports and the like that relate to the analysis of these alternatives on all the different parameters mentioned in the Supplemental Alternatives Analysis Report be promptly furnished to us. In addition, we request specifically that the Covered Trench/Tunnel be continued forward to a full analysis in the Draft EIR, as it is clearly inappropriate to eliminate it at this stage of analysis.

As you know, the City of Burlingame decided not to join in the litigation being brought by several other Peninsula cities against the CHSRA. We desire to work cooperatively with CHSRA, but such cooperation is a two-way street, and we do need to obtain the requested information as soon as possible. As part of this cooperation, we also ask that an alternative desired by the City of Burlingame not be eliminated at this point in the process based on engineering and cost considerations.

We look forward to your cooperation in this regard.

Very truly yours,



Cathy Baylock
Mayor

Enclosures:

cc: City Council
High Speed Rail Authority Board Members
PCJPB Members
Mike Scanlon
City Manager
Public Works Director
Director of Community Planning
City Attorney