

California Rail News

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HSRA Chair Declares Palmdale “New Center of the Universe”

by Richard F. Tolmach

2014 apparently is the year of magical thinking for Governor Jerry Brown and his high-flying high-speed rail team. They began the new year by trying to wish away their loss in Tos/Fukuda, the taxpayer suit against illegal use of rail bond funds.

In that case, Sacramento Superior Court Judge Michael Kinney ruled that rail bonds can't be used until the High-Speed Rail Authority (HSRA) identifies sources of all funds needed to complete the operating segment from Merced to the San Fernando Valley. The ruling verified that full funding of an operating segment was required by the bond act, and determined that HSRA did not have the requisite \$31 billion.

Following the Sacramento Superior Court rulings against the project, the Governor and High Speed Rail Authority Chair Dan Richard spread the word that the rulings that **1) HSRA violated Prop. 1A, 2) ordered HSRA to rescind approval of its funding plan, and 3) impounded bond funds** would have no impact upon the rail project, which would continue without any delays.

The arrogant stance was in line with earlier claims by Attorney General Michele Inan that rescinding the funding plan would have no practical effect. Inan seemed to believe that nothing could halt action by the Authority. However, in the past month both the administration's legal position and the arrogant stance have crumbled. The new administration stance is desperation.

The Governor may have initially been spared the news that his side lost the case. Here's what the court said in its ruling on Tos: "Issuance of a writ of mandate directing the Authority to rescind its approval of the November 3, 2011 funding plan based on the finding that the funding plan did not comply with all of the requirements of subdivision (c) thus will have a real and practical effect: it will establish that the Authority has not satisfied the first required step in the process of moving towards the commitment and expenditure of bond proceeds."

Barely three weeks into the new year, the Brown administration asked the California Supreme Court to intervene and put a stay on the Superior Court actions. Brown administration comments as recently as January 12 in the Los Angeles Times about the ineffectiveness of the rulings are now to be disregarded. Suddenly, Brown and his team claim the rulings imperil the project and threaten state and federal funds.

"Without a stay, the Authority must, within the 60-day return date provided in the writ, choose either to comply with the writ by rescinding the funding plan, which will risk mootng this writ proceeding as well as any eventual appeal of a judgment, or decline to do so and risk sanctions for contempt of court," said the January 24 submission by Deputy AG Inan.

The AG's brief admits, "The issue is time. The Authority is faced with a Hobson's choice: it can pursue appeals that may take years to resolve and incur the exhorbitant [sic] costs, fiscal and otherwise, that will attend the delays, or accept and comply with the orders, likely mootng an appeal, and attempt to move the project forward on the trial court's and private parties' terms." In other words, the Brown Administration is hand-wringing about being forced by courts to obey the law. How embarrassing!

If the state appeals court, as most observers expect, eventually turns down the last-ditch effort after hearing the case, the Fresno and Mojave RR land bubble is dead and the only path forward is an honest plan that actually does something for the public.

As of mid-February, the case had been bucked back to State Appeals Court by the California Supreme Court, which directed the appellate level to hear the case. It may be much too late for the project. The High Speed Rail Authority faces an April 1 deadline to provide \$180 million in state bond funds to match the Federal government's hundreds of millions spent for engineering and environmental work.

Neither state legislators nor the public is excited by the planned \$6 billion project

entirely within Congressman Jim Costa's Fresno to Merced district. The spending would produce zero miles of high-speed service in the next decade, and seems very likely to become an orphaned asset, since there is no funding to complete an operable segment.

Sacramento Bee columnist Dan Walters pointed out, "the simple fact is that there's no way the project as presently constituted can meet the restrictions of the voter-approved bonds—limits that were designed to protect taxpayers' interests. Voters were told that state financial exposure would be limited and that the federal government and private investors would put up most of the money. However, the feds have committed only a few billion dollars and there is absolutely nothing else on the horizon."

PALMDALE MIRAGE STILL FLOATING

Dan Richard, Brown's appointee to chair HSRA, is still dead set against giving up outlandish routes and imaginary funding. Answering Los Angeles Times political

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High Speed: Palmdale Land Scam or Bust

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writer George Skelton, who asked him point blank in mid-January how \$250 million of cap-and-trade dollars plus \$12 billion of existing funds magically add up to \$31 billion, Richard said there would really be more cap-and-trade, maybe an ongoing commitment as much as half a billion a year.

According to legislative aides, reaction by environmentalists to that detail in the Times was enough to turn Senate sentiment against the idea. It also didn't help that the Sierra Club and other groups are skeptical

about cap-and trade for rail, worrying that HSR plans won't deliver emission reductions for many decades.

Richard then let slip the idea that he thought Judge Kenny could be talked into funding track to all the way to Bakersfield. If both the cap-and-trade and bond money were available, Richard told the Times, the line could be extended to Palmdale. "The tipping point is Palmdale. It's the new center of the universe. There's no more discussion about trains to nowhere. It opens up all kind of things."

Richard's views are a bit questionable, but it is a public service that L.A. Times columnist George Skelton has made them available for view.

The public has already largely drawn the conclusion that a rail line that wanders an extra hundred miles to get between Los Angeles and San Francisco is a political deal that makes no sense for travelers. The only remaining question is when the project finally goes bust. It would be better for both the public and candidates if that happened sooner rather than later.

Amtrak Service Is Deteriorating Even As Traffic Demand Grows

**By Don Phillips, Trains Magazine
Courtesy of Kalmbach Publishing**

President Barack Obama, new on the job in 2009, prepared a list of multi-billion-dollar expenditures to help the country pull itself out of a rough economic downturn. High speed rail was one of the items he mentioned repeatedly as he promoted his ambitious plan.

There was just one problem. As he negotiated the \$700 billion plan with Congress, a top aide was shocked by a major omission. Rahm Emanuel, now Chicago mayor but then a top Obama aide, suddenly realized that the plan contained not a penny for high speed rail. Emanuel's sharp-eyed discovery came just in time to add \$8 billion to the plan before the press discovered the omission and embarrassed the president, accusing him of squelching a campaign promise.

Perhaps the president should have been embarrassed. The money, which he tried to spread thinly around the country, was so tiny that the total amount could hardly finance even one passenger rail system. Nor could it finance any system worthy of the name "high speed." Obama continued to talk of "high speed rail," until he realized several years later the phrase had become a joke. Now he doesn't talk of passenger rail at all.

What about the country's non-high speed passenger train system, Amtrak? Unfortunately, during Obama's presidency, Amtrak's passenger car fleet has not grown at all except for a handful of cars bought by states for their Amtrak-operated routes. Amtrak has ordered new equipment only when the old locomotives and cars were deteriorating to the point that they could not last much longer.

What about passenger cars? That is almost a joke. Amtrak President Joe Boardman, who was named to the position two months before Obama was inaugurated, has ordered only 130 new single-level passenger cars, 80 of them baggage cars or baggage-crew cars. Of the other 50 cars, 25 are dining cars and the remaining 25 are sleeping cars, which are the only passenger-carrying cars that have been ordered. Not all 25 cars will be an addition to the fleet; some will replace cars that are due to retire. Boardman is adept at making this small order sound wonderfully big.

Money—holding down losses—has become the touchstone of Amtrak's strategy for survival. Not expansion. One of the ways Amtrak is cutting losses is by passing on losses to the states. States are now statutorily required under Section 209 of the Passenger Rail Investment and Improvement Act of 2008, commonly known as PRIIA, to agree to pay a portion of the expenses of all trains that travel 750 miles or less, except for the Northeast Corridor, which is considered a separate operation and covered under Section 212 of PRIIA. These states are looking at buying new or used passenger cars and are paying for higher speed rights-of-way up to 110 mph in some locations. New trains have been added to several of these routes. For now, these are the only Amtrak routes adding at least a little new capacity.

If one looks around the world, it is obvious that Amtrak is the poor, ragged stepchild of passenger railroading. High speed rail is the standard of the developed world for medium-range passenger transportation. Even small countries such as Korea and Taiwan have embraced high speed rail. The U.S. and Canada are the only devel-

oped countries that have failed miserably to adopt high speed rail.

There are many reasons for this, the first two involving the formation of Amtrak in 1971. One reason was that Amtrak was formed only to remove a major cost burden from freight railroads before the entire freight system followed Penn Central into bankruptcy. The passenger rail system was rapidly going away, everyone thought, although by 1973 Americans shockingly were beginning to ride trains again. A second reason was that Amtrak legislation would never have been signed unless the bureaucrats who formed Amtrak assured President Richard Nixon that Amtrak would be profitable. That was a blatant lie, told for what seemed a good reason at the time, but it is a lie that has haunted Amtrak since then. No passenger rail system in the world earns a profit. None.

Except for the U.S. and Canada, passenger train service is considered a public service. Only four countries have major freight rail systems: the U.S., Canada, Russia, and China. Of those four, only China is developing a high speed passenger system. Russia has a few high speed lines. The U.S. and Canada have no high speed rail.

It would appear to be impossible for Amtrak, in its present form, to ever be able to build and operate high speed rail. So how could Amtrak possibly change in ways that would allow such progress?

There may be a clue in the way that payment for state routes less than 750 miles has been changed, with states making decisions. Perhaps the government will take over Amtrak and drop the fiction that Amtrak is a private company. There are so many possibilities. The worst one would be to go about business as usual.

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Slush Funds, Fat Pay and 2 Sets of Books

CALTRAIN COPIES OCTA & NCTD?

An NBC Bay Area investigative unit working with a former SamTrans accountant has unearthed a second set of books the accountant says the district used to hide millions of public dollars by logging fraudulent and inflated expenses. NBC filed a public records request to verify the claims, and uncovered more than a million dollars' worth of expenses that had no documentation supporting them.

SamTrans handles budgets for SamTrans buses, Caltrain, and the San Mateo County Transportation Authority. Although the NBC investigators were told by SamTrans CEO Mike Scanlon that his staff would provide answers, his staff then went silent in live footage when NBC Bay Area tried to question the transit district on its handling of public funds.

Chief Financial Officer Gigi Harrington repeatedly ducked comment in the news clip, while another SamTrans staffer tried to interrupt the interview and get the film crew to leave the premises.

David Ramires, the former SamTrans accountant told NBC, "This is not telling the truth to the public." He worked for SamTrans from 2001 until 2012, but says he quit because he was "fed up" with finance managers ordering him to record transactions he considered fraudulent.

Ramires detailed to NBC how he, alongside finance managers, deliberately created false and inflated expenses, allowing Chief Financial Officer Virginia (Gigi) Harrington to hide the funds in secret accounts.

"A million dollars was Gigi's goal every year to get in budget money," he recounted. Caltrain and SamTrans have been assailed by citizen groups over the constant growth in administrative overhead, including about \$450,000 of annual compensation and benefits for CEO Mike Scanlon, a statewide record among transit managers.

CFO Virginia Harrington made over \$205,000 in 2012, the last year SamTrans reported salaries, though the agency claims it "voluntarily posts its employees' salaries

in a public forum each year to demonstrate transparency to the community we serve."

Ramires first came forward to expose financial problems at the district last summer, after district insiders provided official documents showing SamTrans funded management coaches and consultants out of an account designated for insurance.

In September, CEO Mike Scanlon admitted that calling these expenses insurance was an accounting error. However, at the time, Scanlon denied that fraud was involved, calling them "honest mistakes."

Ramires disagrees. He was the accountant who logged the transactions, and claims that the improper payments, as well as the second set of books, were part of a system that allowed finance leaders to spend money at their discretion and avoid public scrutiny.

NBC Bay Area filed a Public Records Act request asking for invoices, checks, and back-up documents for expenses from 2011. This request reflected a portion of the expenses Ramires revealed as fraudulent.

In their response, SamTrans told NBC Bay Area that the request cost the district "\$50,000 in public funds and countless staff hours," to produce. Yet, the district could not provide invoices or checks documenting the validity of expenses that Ramires highlighted as inflated or fraudulent. Those expenses included \$118,242.50 for "Maze and Associates," the auditing contractor used by SamTrans to audit its accounts and identify discrepancies. They also included \$1,692,341.41 for Amtrak services, a charge for which SamTrans could only identify \$701,196.71 in documentation.

The San Mateo County District Attorney announced in late October that he was looking into the issue, but hasn't made any comment since the latest revelations of a second set of books. The most recent data would seem to indicate some support for the contention that the mistakes were in fact intentional and actionable.

SamTrans (and Caltrain) are only the latest of a half-dozen California transit agencies to be caught in shady financial transactions in the past decade.

Metrolink is still trying to provide full documentation for its capital projects, many of which underwent extended audits. Its method of dividing costs between counties is still subject to dispute and negotiation.

More recently, NCTD was accused by former employees of erroneously paying bus expenses from rail accounts. And there are persistent rumors from Orange County sources that OCTA has major audit problems with funds used to underwrite the ARTIC Center in Anaheim.

California has become a popular place for transit managers from the Northeast to get promotions and increase their pay,. At the same time, our transit districts may also have also adopted accounting policies and practices that originated in Pennsylvania, Virginia and New Jersey.

Our transit districts today still have a better reputation than taxi companies or garbage haulers, but not by much. The repeated financial meltdowns, salary profiteering and instances of fraud at public agencies are not helpful at a time when rail supporters are trying to convince the public that more spending on rail is merited.

Coast Observations

PUBLICLY BREAKING with Gov. Jerry Brown, Lieutenant Governor Gavin Newsome told Seattle radio show host Ben Shapiro that money set aside for the California High Speed Rail project should be spent on more pressing infrastructure needs. He said neither federal nor private funding had shown up in expected levels. "I am not the only Democrat that feels this way," he added. "I gotta tell you, I am one of the few that just said it publicly. Most are now saying it privately."... **THE FIRST OF 70 new Sacramento-built Siemens electric locomotives went into service on the Northeast Corridor in February, adding energy efficiency and sleek appearance to conventional NEC trains...** **VICE PRESIDENT JOSEPH BIDEN was there to launch the fleet at Philadelphia's 30th Street Station. "This is how we used to grow America,"** he said, referring to the power of rail investment to create good jobs. "The locomotive brakes were made in Baltimore, the paint was mixed in Delaware, the hand-rails were made with pride right here in Philadelphia, the electricians in Middletown made the electric components, seats from Exton, cab signing came from East Pittsburgh, installation from Newark, the basic plastic parts from New York, lighting from New Haven, rubber parts from Boston."... **FARE EVASION on the Los Angeles MTA Orange Line busway got national attention in January, after an MTA study was released estimating that 26 percent of passengers on the bus line evaded fares. Passengers boarding Orange Line buses are supposed to touch their plastic TAP cards to a waist-height pillar that automatically deducts the fare from a pre-paid account. Platforms have no turnstiles and the buses have no fare boxes. "I'm not sure it's all malicious," Orange Line rider Ann Sheridan of Sherman Oaks was quoted in the Los Angeles Times. "Some people may not even realize where to pay."... AFTER THE VOTE at the February HSRA Board Meeting to extend CEO Jeff Morales's employment contract, directors were alerted to a last-minute change in text that would have given Morales a "get out of jail free card" in the form of a contract clause indemnifying him against any and all law violations and liability. Directors quickly rescinded the adoption, and tried to get clarification about just what crimes and liabilities he was thinking about...** **OBSERVERS BELIEVE the clause has to do with an action a year ago in which Morales apparently made unilateral changes in the contract award procedures on a \$1 billion Fresno construction project. Any changes, by law, were supposed to be made with board participation, not unilaterally by staff. The changes allowed the award of the contract to a consortium headed by Tudor Perini. A lawsuit by a Kings County water district seeks to overturn the award due to its illegality and exact damages from persons responsible...**

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EUROPE'S RAIL MOBILITY FRACTURING AT BORDERS

by Richard F. Tolmach

Tony Judt, the polemicist on freedom and the politics of social change (1948-2010) was one of the believers in the power of rail technology to improve Europe, by uniting its peoples and lessening the class distinctions and environmental problems the motor age has produced.

High speed rail was supposed to usher in a new European age of trains, with seamless trips across borders making international travel easier. Just a few years after his death, the vision is turning sour. Major new segments of high speed rail are entering service, but the basic connectivity of Europe's train system is collapsing.

The anti-immigration movement is poised to compound this loss of connectivity. The recent victory of an anti-immigration initiative in Switzerland threatens to spread additional measures to actively constrain free travel throughout Europe's rail network. Switzerland today is a key strategic link between all western European Union (EU) nations, and things have the potential of getting much worse for travelers if visa and passport requirements are reimposed.

EASY ROAD, HARD BY RAIL

The connectivity problem is most severe today on France's Spanish border, which has become Europe's most impenetrable boundary by passenger rail, with fewer through trains than any other European frontier, despite billions of euros spent on standard gauge tracks ostensibly built to remove travel hurdles.

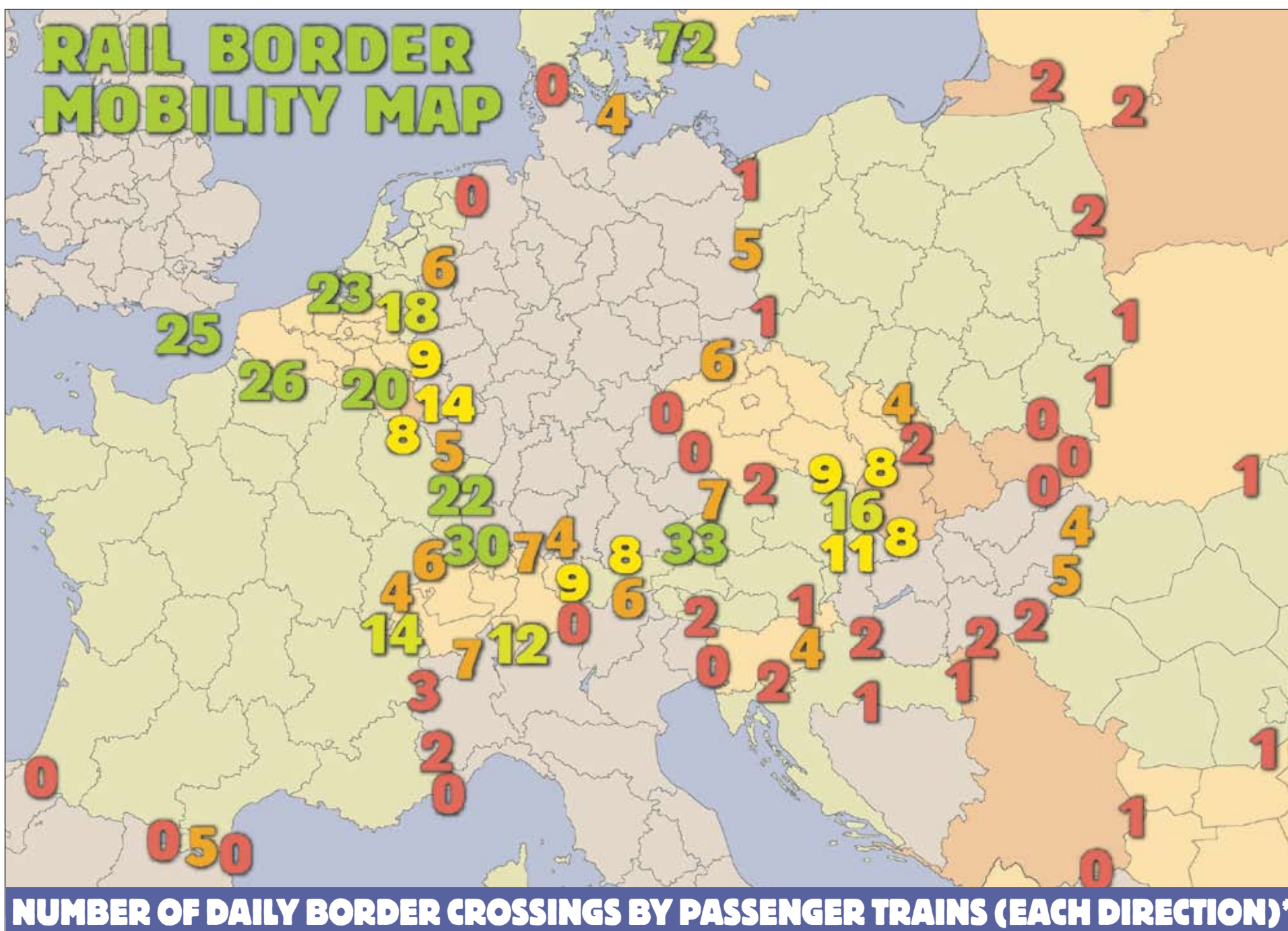
Ten years after construction started in 2004, the joint Spanish-French project for a Barcelona to Perpignan high speed line is complete, and standard gauge tracks run all the way from Paris to the south of Spain. The trains largely don't. Service across the border is even less convenient than before €5 billion was spent on high speed tracks

RAIL & SOCIETY

If we lose the railways we shall not just have lost a valuable practical asset whose replacement or recovery would be intolerably expensive. We shall have acknowledged that we have forgotten how to live collectively. If we throw away the railway stations and the lines leading to them—as we began to do in the 1950s and 1960s—we shall be throwing away our memory of how to live the confident civic life. It is not by chance that Margaret Thatcher—who famously declared that “there is no such thing as Society. There are individual men and women, and there are families”—made a point of never traveling by train. If we cannot spend our collective resources on trains and travel contentedly in them it is not because we have joined gated communities and need nothing but private cars to move between them. It will be because we have become gated individuals who don't know how to share public space to common advantage. The implications of such a loss would far transcend the demise of one system of transport among others. It would mean we had done with modern life.

TONY JUDT, 2011

(from Bring Back the Rails! published January 2011 in the NY Review of Books)



through Barcelona and the Pyrenées.

In theory, the hourly pattern of Madrid-Barcelona trains could extend to Perpignan, where trains depart hourly to Montpellier and the rest of France. In practice, only five high speed trains cross the border daily each direction and only one serves Madrid, arriving and leaving in mid-afternoon.

That's compared to twelve French trains that should be able to access Barcelona and at least five that could easily reach Madrid. It's as if anti-immigration zealots are dictating the train schedule, having failed to close the highways. Trains over the border are also bunched into fleets, leaving six-hour daytime gaps in service each direction and thwarting all but two Madrid high speed connections in each direction.

Again, in theory, one should be able to leave Paris by late morning and arrive in Madrid for tapas, but travel is thwarted by the six-hour gap. One should also be able to leave Madrid at 8 AM for lunch in the south of France, but again a blockade of service north from Barcelona lasts from 10:24 AM until 4:20 PM.

The sad state of service is matched by dysfunctional sales and promotion of the new route. Direct trains started December 15, but sales of tickets were needlessly embargoed until days before the start, ruining Christmas season traffic. The confusing Renfe-SNCF brochure has major typos and hides its schedules among four different tables. No normal timetable for the route has been printed as yet.

Promotions have also been hobbled by delivery gaps and websites with dead links. For example, voyages-sncf.com promised discount train plus hotel trips to Barcelona in January, but after getting passengers to

take the trouble to enter their data the site blocked all on-line bookings. As late as mid-February, on-line ticketing for Easter week, a peak travel period, was still blocked.

ENVIRONMENTAL CONCERN

Kris de Decker, a pro-rail campaigner and publisher of lowtechmagazine.com views the service problem as a symptom of the fight between technologies. He says high speed rail is destroying the best alternative to airlines, the “low speed” conventional rail network.

De Decker observes that start of new high speed rail links is always accompanied by “elimination of a slightly slower, but much more affordable, alternative route, forcing passengers to use the new and more expensive product, or abandon the train altogether.”

Five years ago de Decker promised his readers he would stop flying. “Since then, I have been travelling across Europe almost exclusively by train ... some 70,000 km of long-distance travel. I went as far north as Helsinki, as far south as Málaga, and as far east as Budapest. Europe has the most amazing railway network in the world.”

“However, every year, it becomes harder to keep my promise, and the advance of the high speed train is to blame,” says de Decker, who blames prohibitively expensive fares and more strenuous travel conditions as through expresses are eliminated in favor of shorter high speed rail links.

De Decker says high speed rail doesn't deserve its claimed green credentials. “According to the International Union of Railways, the high speed train ‘plays a key role in a stage of sustainable development and combating climate change.’”

Barcelona, the Joan Miro to Paris (ended in December), as well as the Pau Casals to Zürich and the Salvador Dali to Milano (killed a year ago). Removal of the trains was due to alleged technical problems with 1990's Talgo equipment, but passengers were better served by the more luxurious trains which offered full dining service.

Overnight rail travelers to Paris are now faced with spartan 1970's trains with up to 6 beds per room, expected to need no food or liquor, and to put up with a long transfer at the border. Traffic on the more popular hotel trains has simply been lost to airlines.

The problem began years before with decisions to eradicate international express trains. The past decade has seen the demise of almost every long-distance train in Western Europe, as anti-immigration politics joined EU “reform” of international train services to result in near-complete removal of through trains linking Italy with France and Germany. Those who used to depend on these trains for casual travel across Europe now find themselves at the mercy of travel agents promoting air trips.

BUSES AND AIR INTRUDE

The French National Railway (SNCF) has started a fleet of buses to replace low price rail fares once provided by international express trains. iDBUS, a brand allied with its low-cost iDTGV now occupies the Paris-Amsterdam, Paris-Brussels, Paris-London, Lyon-Milano and Lyon-Barcelona routes, offering €9 to €45 trips to those who have been priced off Thalys, Eurostar and trains now selling for up to €180. About 25 percent of bus runs replaced overnight trains.

Concurrently, the international expresses that used to serve Prague from Zürich, München, Frankfurt and Stuttgart also vanished, replaced by Nürnberg-Prague buses in Deutsche Bahn colors labelled “IC Bus.” Operator of the Prague buses for DB is the Czech company Student Agency, a bus and train operator. Similar IC buses have replaced Berlin-Wrocław-Katowice-Kraków expresses in Poland. Most of the remaining trains over the Polish border are daytime or nighttime runs to Warsaw.

A new generation of budget airlines is also expanding aggressively into 500-700 mile markets. Vueling, a budget brand of Iberian occupies a Barcelona hub and offers advance tickets to Prague, Berlin, Düsseldorf, and Amsterdam for as little as €99. It also competes with Renfe on Madrid-Barcelona trips, with advance pricing of €29 to €37 versus €59 for AVE trains.

In the East, the Budapest upstart Wizz Air has also broken into new markets, again with bargain flights as low as €69 to western markets from Poland, the Czech Republic and Hungary.

A POLICY OF HURDLES?

At the same time as France has lost most of its southern connections, Greece, Turkey, and Bulgaria lost their direct train service to the West. With no more Orient Express through either Bucharest or Belgrade, travelers have to make multiple hotel stays on the way. The same thing is true in much of Western Europe. Only Austria among EU members seems to have retained most of its former overnight runs.

Liberalization of track access was supposed to lead to international competition by private operators. Initially, there was great hope, but many of those opportunities have been thwarted by hurdles to entry,

threatened litigation and poison pill service strategies on existing routes.

Germany's Deutsche Bahn, which seems to still value longer-distance traffic, has outlasted legal attempts to block its ICE equipment from the Chunnel and now plans to launch the longest regular high speed corridors so far to access London. DB has already launched a €59 promotion from most German cities to build traffic. Its own ICE trains to London direct from Amsterdam and Frankfurt will soon begin competing with EuroStar offerings, perhaps later in 2014 according to some sources.

France's SNCF has aimed its new offers exclusively at domestic markets linking to Paris. Ouigo, an alternate SNCF brand only available on-line in France offers €10 fares between the Paris Disneyland stop and a half-dozen stations south of Lyon, some €50 cheaper than regular fares.

iDTGV offers prices as cheap as €29 on over a dozen city pairs linking Paris with places like Strasbourg, St. Jean de Luz, or Perpignan. This is great for French citizens but the trains are not available to international travelers, because iDTGV on-line purchase requires a French credit card. You also cannot buy iDTGV tickets in stations. Americans must use the RailEurope sales channel and pay a 50 percent premium.

WHICH CARRIERS STILL WANT THROUGH TRAFFIC?

Many out-of-touch U.S. parents are still buying Eurailpasses for their graduating offspring, but there is a practical problem for kids trying to use a network with so many gaps in service. I recently observed this in Barcelona, where a station agent at Sants simply refused to make any reservation for two young travelers who wanted to go to Italy. “Impossible,” he told them. “Where do you really want to go?”

A current southern French joke has to do with a local having to chase from his small town to Perpignan, Montpellier, Lyon, and finally Paris to find an ticket agent who will sell him a train ticket to Peking, but for the trip back being asked in China if he wants the ticket to the uphill or downhill stop in his small town. The details in the joke are a bit cracked, but people here repeat it because they recognize the staff behavior.

The great exceptions to the shortage of detailed and accurate information about international services have been Deutsche Bahn (db.de) and the Austrian Federal Railways (oebb.at) which both feature on-line search engines that can provide full schedule services throughout Europe.

Perhaps this is because the high speed rail gospel that long-distance service is outdated has been less accepted in Germany and Austria, but it also goes along with more respect for passenger needs. The solicitude of Austria's ÖBB is a welcome contrast with attitudes seen in the south:

With the ÖBB EuroNight trains (EN), you travel comfortably over night, and thus save precious time and expensive hotel costs. During the ride at night, you rest in the sleeping, couchette or seated cars – as you wish. In the morning, you reach your destination well rested and relaxed – directly in the city centre. Ideal for city trips, holiday travels and day excursions. Our friendly team on the train is there for you around the clock and provides for safety, peace and quiet, and good services, in order to make your journey as pleasant as possible.

Caltrans Competence Questioned Loss of Rail Expertise Not Isolated

An independent review of Caltrans by a Wisconsin public policy institute, released in February, identified long-standing flaws in policies and processes that have prevented the transportation department from its core mission of keeping the state moving.

The report says “crucial policy changes, unusual if not unique for state DOTs, have reduced Caltrans’ power and capacity to act. One is the evolution of ‘self-help’ counties, which allows local government to fund and often dictate the shaping of transportation systems, including the state highway system. The other is the state’s practice of sub-allocating state funding by formula to the local level, again empowering stakeholders vis-à-vis Caltrans and reducing funds available at the state level.”

The shedding of responsibility has not only afflicted the highway projects cited by the study, but has also become endemic in the rail program, with route managers not even able to determine schedules or prioritize capital improvements because of excessive deference to local agencies with their own agendas.

The study called for sweeping reforms in these and other policies to improve mobility in light of environmental problems and a decline in California highway travel.

Gov. Jerry Brown funded the analysis by the State Smart Transportation Initiative (SSTI) at the University of Wisconsin last year as part of his attempt to restructure state transportation efforts, which also included creation of a separate cabinet level agency, the State Transportation Agency.

The report cited “a mission, vision and set of goals that are not well aligned” with current needs, including conformance with SB 375, environmental legislation that mandates measures to reduce traffic demand and greenhouse-gas emissions by improved public transportation mobility..

A spokesman for SSTI said that Caltrans “is still acting too much as your highway department, not your mobility department.”. SSTI called Caltrans management practices “out of date,” with no serious oversight or metrics (“financial performance, operations, innovation, and employee performance) to monitor managers’ conformance to the department’s missions.

Ten times within the report, “fear” or “a culture of fear” inside Caltrans are cited, many in reference to quotes from managers about why “contact-sensitive solutions” and other reforms in project design to make highways more compatible with cities were so rarely applied. The report gets into detail with a lengthy discussion of how access to beaches from a seaside community near Ventura was thwarted even after a pedestrian tunnel was built to respond to community requests. Its blockage by Caltrans apparently resulted in at least one fatality.

Brian Kelly, Secretary of the new State Transportation Agency which oversees Caltrans, agreed with the report that a change in culture was necessary to getting better results from Caltrans. Kelly specifically cited state of repair on highways. “It’s not OK to have highways ranked 48th nationally in terms of pavement condition” yet still prioritize new construction,” Kelley said.

“a culture of risk aversion and fear”

The Sacramento Bee observed that the “sometimes stinging” report avoided any specific mention of “cost overruns, delays and construction errors on the new San Francisco-Oakland Bay Bridge, which has dominated much of the debate about the department’s work for the last few years.”

Apparently in response to Bee questions, “Kelly said he would favor greater openness in the operations of bridge project managers,” including the secretive Toll Bridge Program Oversight Committee, a group of Bay Area experts, some with apparent financial conflicts of interest, whose meetings are always held in private. “Given the benefits of better communications with the

public on the \$6.4 billion project,” Kelly told the Bee that the exemption to the state’s open-meetings law did not serve the Bay Bridge project well.

The report said that an organization wide structural study was beyond its scope, but that project development staffing was over-provided “including half or more of the staff members in planning” but that staff was short in operations, in non-highway modes, in asset management, and in strategic partnerships, including innovative finance.

Among other primary recommendations, the report included the following items:

Caltrans should strengthen its planning unit. The planning function within Caltrans, ... with more than 600 planners, does not seem to do “planning” in the sense of viewing the state’s transportation program, its future, and needs from a systems perspective. Recent reviews of the planning function, shared with the SSTI team, have found deficits in basic skills, such as demand projection and analysis of location efficiency. Caltrans needs this capacity to guide its own investment and to help lead wiser decision making at the regional and local levels.

Caltrans should improve its ability to operate its highway system. Caltrans’ integrated corridor management (ICM) arrangement in San Diego holds great promise, but it was instigated at the local level and has not been replicated elsewhere in the state. Internal and external stakeholders report that Caltrans tends to value-engineer out loop detectors and other operations-related assets, and many ITS message signs have been inoperable. As with planning, the department’s operations unit should be better resourced and play a more prominent role in the department’s thinking.

Caltrans should modernize its stewardship effort through asset management. Establishment of an asset management system, which will provide more efficient use of scarce system preservation dollars, is one of the goals of the department’s own program review. Other DOTs, such as Michigan, are much further along and can be models.

CalSTA and other stakeholders should support Caltrans in its current work to develop the system, which will require significant technology and skills resources.

Caltrans should provide more resources, expertise, or simply a real voice in planning and prioritization to the offices dealing with rail and freight. The state focus on rail modernization would suggest an important staff function in Caltrans for rail planning, and yet the staff size seems quite limited. The same can be said for the number of staff devoted to freight planning. Reallocating resources to these critical, but now marginalized, elements of the organization will be essential.

Caltrans should develop an enhanced internal capability to identify and pursue innovative finance partnerships. It seems likely that the future fiscal picture for California, as for other states, will be one where a range of funding mechanisms will be used, with innovative financing arrangements playing an increasingly more important role. While Caltrans has pursued innovative financing, and has properly relied on outside consulting to assess the details of such deals, it needs enhanced enterprise capacity to identify and pursue potential deals going forward. This is an initiative that should be undertaken jointly with both [State Transportation Agency] and Caltrans participation.

Dumbarton Last Chance?

Although the Dumbarton Rail project was one of the key features of Regional Measure 2 that led voters to support it in Alameda and Santa Clara Counties, the Bay Area’s Metropolitan Transportation Commission still seems to be trying to kill the voter-approved project.

Some of our best Bay Area thinkers view the project as essential to the Bay Area’s rail network. Jerry Cauthen has often noted that this project is the only possible way to avoid the cost of a new multibillion Transbay tunnel to deal with the lack of capacity in BART’s Transbay tube.

After refusing to put \$300 million into Dumbarton Rail, while putting far more than that into new HOT lanes, MTC now has the gall to say that the project must be cancelled for lack of funding.

This is especially egregious because a draft EIR has been prepared, but is sitting on the shelf because FTA won’t sign off on the EIS until the project is funded.

Sufficient mitigations were built into the plan that it was acceptable to the Don Edwards Wildlife Refuge. That had been the main objection when HSRA selected the Pacheco pass over the Altamont pass.

MTC’s attitude towards Dumbarton Rail appears to be driven by the forces that insisted on Pacheco HSR for their private benefit, contrary to the greater public good.

TRANSDEF sued MTC when it tried to shift \$91 million from Dumbarton Rail to Warm Springs BART. The promise had been that the money would be repaid by Alameda County in later years, when Dumbarton funding had been assembled. MTC now proposes to take the last \$35 million allocated to the project and convert that transfer from a loan into a grant, so that the Dumbarton Project wouldn’t have to be repaid.

Please contact David Schonbrunn at info@transdef.org if you want to work on saving this essential project.

HSRA: What's Wrong and What to Do

by **David Schonbrunn**
President, TRANSDEF

What's Wrong with the HSR Project?

Without private capital, a California HSR system cannot be built. The 2008 bond measure was premised on one-third of the investment in HSR coming from the private sector. Yet, six years later, there are no private investors in the project—even now, when it is supposed to begin construction. This demonstrates that the High-Speed Rail Authority (HSRA or “the Authority”) has failed to create a commercially attractive project. But is California HSR inherently unattractive commercially?

High Speed Rail Is a Viable Business

California HSR can be an entirely viable business, if approached with cost-consciousness. We know this because officers of the California Rail Foundation and TRANSDEF were present for the dress rehearsal of the presentation made by a subsidiary of the French National Railways, SNCF America, to the Authority in October 2010. Private capital was interested in funding the project, if certain conditions were met.

The presentation addressed what experts saw as the key weakness of the HSRA project—its insistence upon designing and building the initial operating segment without private capital and without direct involvement of any firm with high-speed operating experience. The Authority's plans are vastly more expensive than necessary only because its engineering decisions were repeatedly made in secret, in a political environment where nobody was responsible for controlling costs.

The presentation suggested the Authority use the structure of a Pre-Development Agreement (PDA) to bring an experienced operator on board immediately to direct the project and control costs. In the meeting, SNCF America was accompanied by a major U.S. investment bank ready to fund the construction of the San Francisco to Los Angeles phase of the project without ridership guarantees.

A major condition of the SF-LA proposal was SNCF America's insistence that route decisions needed to be guided by financial reality. While part of the PDA process was to refine a route, managers had tentatively concluded that Interstate 5, with about 100 fewer route miles, would be much a faster route than the politically distorted route approved by the Authority—as well as far less expensive and disruptive to build.

SNCF America believed the Authority's route to be a money-loser, and would not accept ridership risk for it. Note that, despite all the talk about the merits and demerits of an I-5 route, the PDA proposal was not for a specific route. It solely proposed a process to bring in private capital and an experienced operator.

Authority board members and staff did everything possible to discredit and bury the Los Angeles Times story which brought the private proposal to light, over a year after the Authority thought it had buried the idea. The board chairman went so far as to tie the railroad to the Holocaust. With all the slurs flying around, it is important to note that SNCF America was not asking CHSRA to turn the project over to it. It was instead asking that CHSRA establish a Request for Qualifications process, leading to an open Request for Proposals process, which would result in the selection of an operator. The firm was fully aware that the winning proposer could be another firm and had no intention of being the only firm considered.

HSRA Chooses the Dark Side

Had the HSRA been operating in the public interest, it would have held public hearings on the proposal and on the desirability of revising its favored route. The high-speed rail project could have been under contract today with an

international HSR operator selected through an open bidding process, proceeding towards a fully funded LA-SF buildout. (A project like that would probably not have been challenged by TRANSDEF or other rail reform groups.)

This process would have been consistent with recommendations of the High-Speed Rail Peer Review Group from its very first letter, stressing the importance of the participation of the HSR operator throughout the design process. Instead, HSRA kept the PDA proposal secret and continued pushing its politically driven route, spending over \$500 million on its plans.

Given the overarching need for private capital, the 2008 *Report of the Responses to the Request for Expressions of Interest* is highly significant. It indicated no HSR operator was willing to undertake the ridership risk of investing in the project designed by the Authority. Operators claimed ridership guarantees were needed to reduce financial risk, but subsidies were explicitly prohibited by the bond measure. The interest of private investors showed, however, that insistence on ridership guarantees was due to a flawed route.

HSRA's 2012 Business Plan rested on the foundational assumption (see pg. 4-3) that no private capital would be invested before the project showed a profit. The PDA presentation, however, informed HSRA directors that the predetermined route is what made the project unattractive to private capital.

The Business Plan asserted \$31 billion in public funds (pg. 3-8) needed to be spent to build from Merced to the Los Angeles Basin before private sector participation was possible. That is roughly \$26 billion in unfunded capital costs, an amount so out of reach that the Business Plan is neither a business nor a plan. It is a faux plan. HSRA's true goal seems to be spending federal grant funds. Building high speed rail appears to be just a cover story.

Can Reform Happen if HSRA Stays?

The Authority's rejection of a commonsense proposal to reduce risk to the State of California and its adoption of a faux-plan raise disturbing questions. Where do HSRA's loyalties lie? The PDA proposal would have brought in critical expertise needed for design decisions, along with private capital willing to assume ridership risk. A profit-making SF-LA system could have been under construction today, at a greatly reduced risk to the State. HSRA's choice to proceed with the faux-plan, at best, results in a \$6 billion track that can't be used for HSR, and no viable pathway forward to a statewide HSR system.

By rejecting the PDA proposal, keeping it secret, and then mounting a damage control effort to snuff out the story when it finally became public, HSRA clearly told the world that its commitment to its army of consultants outstripped its commitment to delivering a high speed rail project to the people of California. It appears to be impossible to reform the project with the discredited staff and board still in control of the process.

What Can Be Salvaged in the Project?

California's high speed rail project was able to gather over \$3 billion in federal grants for California, which come with a very tight deadline: funds must be spent by 2017. The events of the past three months make it predictable that HSRA will not be able to meet the requirements of Proposition 1A to qualify for bond funding with its current 130-mile Central Valley project, and will lose these funds.

The following proposal seeks to legally salvage and expend funds via amendments to the grant agreements. It is based on the California State Senate Transportation and Housing Committee's July 2012 report: An Alternative Strategy for Developing High-Speed Rail Service in California, which provided a Plan B if the

Legislature did not authorize the use of Prop 1A bonds that month.

The following project list is consistent with Committee's Principles Governing High-Speed Rail Funding, with these exceptions: 1) The Madera-Fresno HSR project is dropped in favor of improving existing San Joaquin tracks and 2) Caltrain electrification and Los Angeles-Palmdale improvements are deferred until the future of the HSR project is clarified. This list is partly based on the State Rail Plan.

These projects are incremental HSR-compatible improvements to the statewide passenger rail network, which will cost-effectively build ridership, demonstrate demand for HSR and restore public confidence in the State's role in passenger rail.

Improvements to the San Joaquin Corridor would greatly benefit Central Valley cities at a modest cost and little disruption, tying into the HSR north-south main line for one-seat trips to Los Angeles and the Bay Area. The other projects are all essential elements of a future statewide HSR network (with the exception of the bus platforms). Accessing Prop. 1A bond funds may require voter approval of modifications to the bond measure.

IMPROVE EXISTING CORRIDORS (Amtrak California service), extending double track with a speed of at least 110 mph (with more tracks where necessary)

- Build projects to increase speed and reliability on the San Joaquin Corridor (\$1.7 billion) from Sacramento to Bakersfield
- Build projects to increase speed and reliability on the Surfliner Corridor (\$1.7 billion) between San Diego, Los Angeles, and San Luis Obispo

NEAR-TERM LA, OC & BAY AREA WORK

- LA Union Station run-through tracks (\$400 million)
- Build grade separations for the 3 most dangerous rail crossings in LA-Anaheim segment (\$264 million)
- Caltrain Downtown Exten. (\$1.1 of \$2.5 billion total cost.)

SPEED UP LA-BAKERSFIELD SERVICE

- Fill in the inexpensive portions of the California rail network's gap: Extend San Joaquin tracks south from Bakersfield via Arvin branch to Wheeler Ridge
- Install level boarding from bus to rail at Wheeler Ridge and Santa Clarita to speed up loading
- Contract for Metrolink to meet buses at Santa Clarita
- New high-capacity bus fleet with roll-on handicapped access, similar to state-of-the-art European buses.

BRING IN A PRIVATE PARTNER

No new rail route should be built without a private partner directing its development. With a private partner, new corridors would therefore either be economically feasible without operating subsidies, or not be built. We think the Pre-Development Agreement process offers the optimal way to select a private partner experienced in operating passenger rail. The PPP private partner should be offered bond funding for the environmental/planning process.

PRIORITY FOR EXPENDITURES

New routes that will be part of the future HSR system should be planned and built in the following order:

- Grapevine connection from Bakersfield to LA, to be shared with San Joaquin trains
- Altamont connection to Bay Area, to be shared with San Joaquin trains
- High-speed connection between LA and Bay Area on I-5

GOV. JERRY BROWN NEEDS \$68 BILLION FOR HIS HIGH-SPEED CHOO-CHOO TRAIN FROM L.A. TO S.F. HOW TO GET IT?

WAIT FOR THE CASH TO TURN UP IN THE STATE PARKS DEPARTMENT'S SECRET MAGIC ACCOUNTS

JUST TELL THE ELFIN LAD WHO GUARDS THE POT O' GOLD UNDER THE MAGIC REDWOOD TO COUGH IT UP!

KICKSTARTER

AND IF WE MAKE OUR \$30 BILLION "STRETCH GOAL," WE'LL ADD A LOOP-TO-LOOP ON THE GRAPEVINE!

TRAINCOIN

IT HAS THE FISCAL STRENGTH OF "BITCOIN" PLUS THE COOLNESS OF "DOGECOIN"—AND EACH COIN IS MADE FROM TRAIN METAL!

AND THEY SAID I WAS A "MOON BEAM"?

SUPPORTING RAIL REFORM IS TAX-DEDUCTIBLE

HSR VIA TEJON SAVES BILLIONS

The California Rail Foundation was founded in 1987 to promote modern rail and bus technology, including high-speed rail. Since that time we have produced *California Rail News* and cosponsored an annual conference that educates on rail, Cal Rail 2020.

We never believed it would be easy to build California high-speed rail, but we underestimated just how much fraud megaprojects apparently attract. The project now has a broken budget because of tens of billions of pork including 200 miles of wasted route and dozens of miles of unneeded viaducts planned in the Central Valley.

It appears to be the same model used on Peninsula and Los Angeles County segments. Taxpayers are being offered only overly expensive choices by HSRA that wreck cities the same way that elevated highways would.

It does no good to just complain about fraud; we have to organize and fight it in court.

In July 2008, CRF filed suit in Sacramento Superior Court, along with the Planning and Conservation League, TRANSDEF, the Town of Atherton and the City of Menlo Park to overturn adoption of the Pacheco Alternative which would have destroyed many Peninsula cities.

We won the case in October 2009. HSRA was forced to rescind its selection of Pacheco and redo its environmental work. A brief opportunity in 2010 allowed us to submit new comments into the record. We retained a leading model expert, Norm Marshall of Smart Mobility, who found major flaws in HSRA's ridership figures, confirmed by other experts.

We also retained the leading European HSR route design firm, Setec Ferroviare, to help us define and present a faster and better way for trains to link S.F., Sacramento and Los Angeles, through the East Bay. Initial court findings have been favorable, and we are hoping for a clear victory. You can see Setec's work and other new

feature articles at the CRF site:

calrailfoundation.org

At the same time, CRF has continued to support parallel legal efforts that have paid off with a high probability HSRA will have to either obey the Prop. 1A language compelling an operable route for its first construction segment, or drop the entire project (see cover story).

CRF is actively providing leadership on reforming the project, and promoting cost savings available by involving private capital. Your generous contribution today to CRF will help us stop the bad plan and launch an environmentally superior alternative.

We are a tax-deductible 501(c)(3) nonprofit, and operate without paid officers or permanent employees, so all financial resources are directed to our mission of cost-effective modern rail service. Take a tax deduction by using the form on Page 2 to send a check to CRF or by using the PayPal link on our web page.