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March 28, 2019

Ms. Jamie Rennert
Director, Office of Program Delivery
Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Jamie.rennert@dot.gov

Re: Notice of Intent to Terminate Cooperative Agreement No. FR-HSR-0118-12-01-01

Dear Ms. Rennert:

My neighbors and I in the northeast San Fernando Valley have long opposed certain routes proposed for the high speed train from Palmdale to Burbank which were revealed to us in August 2014 and which impact our communities and the entire State of California. In addition to opposing certain routes, I am opposed to the methods and processes of the California High Speed Rail Authority (CHSRA). Those methods and process constitute a material breach of its agreement with the Federal Railroad Administration (FRA). I wish to add my support to the FRA'S letter to Brian Kelly dated February 29, 2019 wherein it asserts that CHSRA materially breached the FY10 Agreement. Based on these breaches, the letter states its intention to (1) terminate the above-referenced agreement between it and the California High Speed Rail Authority (CHSRA) and (2) de-obligate the full \$928,620,000 obligated under the Agreement.

On March 4, 2019, Brian Kelly, CEO of the CHSRA, asserted in his response that no material breaches were proven.

This is not true.

I have knowledge of facts concerning several issues that were withheld from CHSRA's response letter and about its general conduct, which I feel furthers your assertion that CHSRA has materially breached the contractual requirements of the grant.

CONFLICT OF INTEREST - The Mineta Transportation Institute

The Mineta Transportation Institute-Equine Study. CHSRA agreed to perform an equine study since a large portion of our area contains horses, This type of study would have to be completed as part of any EIR/EIS. A copy of both the report and SAFE's rebuttal are available on the SAFE website dontrailroad.us SAFE stands for Save Angeles Forest for Everyone which is a coalition of community leaders in the Northeast San Fernando Valley.

The Choice of the Mineta Transportation Institute for Authoring a Report for Any High Speed Rail Topic Presents a Blatant Conflict of Interest. In December 2015, CHSRA released its study produced by the Mineta Transportation Institute (MTI) entitled, "High-Speed Rail and Equine Issues." Because our area is largely equestrian, our then California Assembly Member Patty Lopez had requested the CHSRA to fund such a study. Concerns were raised by equine veterinarians and equestrians as to how horses would react to a 220 mph train crossing trails and ranches. We had expressed our interest in partnering with CHSRA in selecting an institute of higher learning that would be authoring the study to ensure that (1) a reputable and knowledgeable institution would be selected; and (2) the study would be completely unbiased. We heard nothing back after multiple attempts over a period of several months to offer our input in selecting the institute until in December 2015, when the Mineta Transportation Institute (MTI) report was released.

After the report was released, it was discovered that MTI officials had existing or former relationships with CHSRA. CHSRA purports to be "transparent" in its operations, yet it commissioned MTI to conduct "independent, third-party expert studies." The following MTI officials had existing or former relationships with CHSRA which proves that a conflict of interest existed:

1. Jeff Morales, then CHSRA CEO: MTI Trustee
2. Michael Townes, HNTB Sr. Vice President: CHSRA contractor MTI Trustee
3. Ron Diridon Sr., former CHSRA board member/chair: MTI Trustee
4. Will Kempton, Chairman of the Orange County Transportation Authority and Chairman of the CHSRA Peer Review Group: MTI Trustee
5. Mortimer Downey, who is a former executive at Parsons-Brinckerhoff (now known as WSP USA), another major contractor to CHSRA: MTI trustee.

Additionally, along with CHSRA and Caltrans, MTI was and continues to be a sponsor of U.S. High Speed Rail Association's annual high-speed train conferences. If that's not enough, the primary funding sources for MTI are CalTrans and the U.S. Department of Transportation, each of which, at that time, possessed a pro CHSRA bias.

Not only was the report authored by an institute with deep ties to CHSRA, the report was also deeply flawed on multiple levels in its content and methodology, ranging from

claiming that horses are “somewhat deaf compared to us (humans)” to utilizing a “desktop study” instead of actual field research.

The equine study and the authors thereof show a bias and a lack of judgment which carried over into every aspect of the CHSRA work. The failure to be honest and straight forward is a material breach of its obligations.

The Mineta Institute-Tunnel Study At a June 2015 CHSRA Board meeting held in downtown Los Angeles, the Board, led by then Chairman Dan Richard, publicly agreed to provide three “up front” studies: Groundwater impacts, tunnels, and seismology. In March, 2016, MTI released its study entitled, “Trend Analysis of Long Tunnels Worldwide.” Not surprisingly, the same flawed research as utilized in the equine report carried over into this study. Even the title is ridiculous as further defined in the report’s Research Outcomes: “No precise definition of a ‘long’ tunnel currently exists.” For the same reasons noted above under The Mineta Institute-Equine Study, this study is biased due to an obvious conflict of interest.

Additionally, a study of tunnels without a geology report of the area in which the tunnels are to be made, is useless. As indicated hereafter, CHSRA hid the geology report of the area because of its devastating conclusions.

CONFLICT OF INTEREST – California State University, Fullerton

California State University Fullerton (CSF) “Groundwater Study Palmdale to Burbank.” As mentioned above, a groundwater study was promised to stakeholders at the June 2015 Board meeting. In March 2016, CSF released a report on the impact of tunneling on groundwater resources. Rick Simon of HNTB, one of CHSRA’s highly compensated contractors, is an adjunct professor at CSF in the engineering department. Again, this report is rife with conflicts of interest.

MISMANAGEMENT – ARBITRARY METHODS USED FOR REMOVING/CARRYING FORWARD VARIOUS ALIGNMENTS

Alignments Were Removed or Carried Forward Arbitrarily. An analysis prepared by one of the SAFE members concluded that historically, alignments in other operating segments in California were eliminated for far fewer and less compelling reasons than those alignments still then being actively studied by CHSRA in the Palmdale to Burbank operating segment. A copy of that analysis is available on request. While the average number of reasons for elimination per alignment ranges from 2.0 to 2.7, the reasons to eliminate the three deep bore tunneled alignments through the San Gabriel Mountains ranged from 10 to 15 reasons. In other words, the same criteria for removing an alignment was not equally applied. For example, the criteria of “Construction challenges and/or lengthy schedule” resulted in the elimination of 44 (of 227) alignments but did not result in the elimination of three of the most challenging deep bored tunneled alignments through the San Gabriel Mountains. Had the criteria been

institutionalized and consistently applied from the beginning of the project, much time and money would have been saved. That analysis was provided to CHSRA. It, like other comments, fell on deaf ears. The failure to take facts into account at an early stage merely wasted money provided in part by the Federal Government. This is a material breach of its obligations to the FRA and the residents of the State of California.

HIDING THE TRUTH – THE GEOTECHNICAL TUNNEL STUDY

In August of 2017, through a public records request, SAFE obtained a report dated March 2017 entitled, “DRAFT Geotechnical Tunnel Feasibility Evaluation for High Speed Rail Tunnels Beneath the Angeles National Forest.” This report was nothing less than a bombshell and was not publicly available on the CHSRA website. CHSRA did what it could to hide this report and its conclusions since it would substantially increase the cost of construction over even the highest estimates. In fact, it may have precluded any route through/under the Angeles Forest.

The damning highlights of the report are detailed in a letter from me in 2018, and which is available on the SAFE website. In summary the problems are as follows:

1. In over 6 miles of the 21 miles of tunneling, the water pressure was so high (in excess of 25 bars) that no tunnel has ever been designed which would not leak at those pressures.
2. The cost increase for tunneling through the Angeles National Forest at those depths was not properly calculated.
3. Big Bertha, a tunnel boring machine (TBM), was stuck in Seattle at 1,300 feet and it took a year to remove it from underground. It had to be accessed from the surface. The drilling depth for the Angeles National Forest (ANF) was about 2,400 feet. A TBM which is stuck at that depth may never be recovered. Such a recovery effort in the ANF might not even be possible, and the Forest Service might not allow it to happen.
4. The 2018 Business Plan failed to address these issues even after it received a letter detailing the problems found in the Draft Geological Report. See Exhibit 1 which is my letter dated May 29, 2018 which addresses such failure.

The failure to put its own geotechnical report on its website was an effort to hide the report. We located it only through a public records request. The attempt to ignore or circumvent the conclusions in that report show the CHSRA cannot be trusted to prepare an EIS on behalf of the FRA and further show that CHSRA has materially breached its agreement with the FRA by failing to disclose the true nature of the problems with this project, including an alignment which was doomed to failure as it enters the San Fernando Valley.

Ms. Jamie Rennert

Re: *Notice of Intent to Terminate Cooperative Agreement No. FR-HSR-0118-12-01-01*

March 15, 2019

Page 5 of 5

For the foregoing reasons, I urge you to render your decision concluding that the CHSRA did in fact materially breach its Cooperative Agreement No. FR-HSR-0118-12-01-01. The agreement should be immediately terminated resulting in the de-obligation of \$928,620,000. Further, I urge you to require CHSRA to immediately repay the already-expended \$2.5. billion in FRA grant funds.

I read a recent article in the Wall Street Journal about a similar train wreck of a project in Hawaii which seems eerily similar to the California experience with CHSRA. In Hawaii not only is the Federal Government withholding future funding, but a federal grand jury has been convinced. My question is where is the grand jury to investigate our problem?

I am sending a copy of this letter to the governor and various other elected and appointed officials. I hope that they will understand the depth of the CHSRA deception of the public and the federal government. It is inexcusable.

Sincerely,

A handwritten signature in black ink that reads "William E. Eick". The signature is written in a cursive, slightly slanted style.

William E. Eick.

cc: Gov. Gavin Newsom
Various elected and appointed
Representatives

EXHIBIT 1

William E. Eick
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W (818)248-0050

May 29, 2018

Calvin L. Scovel III, Inspector General
Office of Inspector General, U.S Dept. of Transportation
1200 New Jersey Ave SE
Washington DC, 20590

Re: *Audit of California High Speed Rail*

Dear Inspector General:

I hereby submit comments regarding your audit of California High Speed Rail (CHSR).

DRAFT PLAN CHSR 2018 BUSINESS

1.1 I recently read the Draft 2018 Business Plan for CHSR which talked in generalities about doing future geotechnical reports to help CHSR make decisions. A copy of the 2018 Business Plan is attached as Exhibit 1. However, in fact a 60-page geotechnical report had already been prepared and completed by CHSR in March 2017, a copy of which is attached as Exhibit 2. This March 2017 Geotechnical Report was published about one year prior to the Draft Business Plan. Page 18 of the Business Plan speaks of core samples drilled as deep as 1,000 feet in some unspecified location. However, the March 2017 Geotechnical Report for tunneling through the Angeles National Forest (ANF) referenced core drilling as deep as 2,600 feet. The 2018 Draft Business Plan totally ignores its own March 2017 Geotechnical Report. The reasons why this is important are as follows:

1.2 A copy of the October 21, 2017 article in the LA Times entitled "A 13.5 Mile Tunnel Will Make or Break California's Bullet Train", by Ralph Vartabedian about the CHSR tunnel in Pacheco is attached as Exhibit 3. The March 2017 Geotechnical Report seems to describe conditions far worse than those described in the article on the Pacheco tunnel. These more severe conditions include, but are not limited to the following:

- 1.2.1 The total tunnel length of the Pacheco tunnel was about 13.5 miles. The tunnel from Palmdale to Burbank is about 22.6 miles, 18.79 miles of which goes through the Angeles National Forest in the E2 Route. (Table 6.9 of the March 2017 Geotechnical Report)

- 1.2.2 The Pacheco Tunnel has at most 1,000 feet of overburden. The tunnel through ANF has, depending on the route, between 2,000 and 2,650 feet of overburden. (Table 6.9 of the March 2017 Geotechnical Report). I do not have overburden figures for the portion of the tunnel that is not in the Angels National Forest.
- 1.2.3 The article on the Pacheco tunnel does not mention water pressure except to say that if water were to be encountered, the costs would increase. The March 2017 Geotechnical Report focuses substantially on this issue. Over 6 miles of the E1 and the E2 routes each have water pressure in excess of 25 bar which means that those tunnels will leak when completed. (Table 6.9 of March 2017 Geotechnical Report). No tunnel has yet been constructed to withstand pressures in excess of 25 bar. This is a substantial additional risk/cost not apparent in the Pacheco tunnel.
- 1.2.4 Because of the type of gravel/soil located in portions of the proposed tunnels, the March 2017 Geotechnical Report focuses on the need to be able to rescue the Tunnel Boring Machine (TBM) from the San Gabriel mountains. With overburden in excess of 2,000 to 2,650 feet, that would be an expensive and time-consuming process, especially since CHSR would have to excavate a shaft to total depth, in what in all likelihood would be close to an earthquake fault, since that is where the loose dirt is located and where it is more likely that the TBM would be stuck. It is instructive to look at the rescue efforts to extricate the Big Bertha (TBM) from the Seattle area at about 1,300 feet, video footage of which I found on the Tunnel Talk website. I believe that it took about one year to complete that rescue. I only half-joked in my testimony to the CHSRA Board on April 17, 2018 that the reason CHSRA hired the person who worked on the tunnel in Seattle was so that they would have a leg up on rescuing a frozen in place TBM.
- 1.2.5 An additional problem with water pressure is the surface and subsurface dewatering caused by the tunneling through high-pressure water areas. This was not mentioned in the article on the Pacheco tunnel.
- 1.2.6 The final matter involving water is the problem of removing water from an earthquake zone. A 2014 article in the Smithsonian on removing water from earthquake-prone areas suggests that this could actually cause earthquakes. The Smithsonian report talks about the removal of groundwater in portions of the central valley of California. In the case of CHSR, the removal of water would be at the point the TBM crosses the fault lines. That issue was not discussed with respect to the Pacheco tunnel, but it appears to make the Palmdale to Burbank tunnels more complicated.
- 1.2.7 The March 2017 Geotechnical report states that the material through which the TBM must travel is very abrasive which accelerates wear and tear on the TBM. Additionally, water leakage and constant contact will likely be corrosive and

affect the cement, the rails, and the electrical systems resulting in material fatigue and in the case of electrical systems, hazardous conditions. None of this was mentioned in the article on the Pacheco tunnel.

1.2.8 I am sure that there are other differences, but I would need more time or more knowledge or both. See Sections 7 and 8 of the March 2017 Geotechnical Report for a more detailed analysis.

1.2.9 In summary, tunneling through the Angels National Forest is not feasible at best and precarious at worst and as such should not be included as alternative alignments.

1.3 The article on the Pacheco tunnel indicated that experts in the area estimated the cost of the Pacheco tunneling at between \$5.6 billion and \$14.6 billion for the 13.5-mile long tunnel. That is between \$.41 billion and \$1.08 billion per mile. As set forth above, the Palmdale to Burbank tunnel seems much more complicated and risky, which I think would indicate that the higher end of the cost per mile figure is more appropriate. If the \$1.08 billion per mile figure is used, then the 22.6 miles of tunnel length for route E2 would equal \$24.41 billion. (It should be noted that the SR 14 route has 24.2 miles of tunnel which at 1.08 billion per mile equals \$26.36 billion). Since the 2018 Draft Business Plan states that the TOTAL base cost for the Palmdale to Burbank section is \$17.546 billion (Exhibit 3.13 of 2018 Draft Business Plan), CHSR is about \$7 to \$9 billion over budget just for the tunneling construction. At half a billion dollars per mile for the non-tunneling portion of the Palmdale to Burbank section, it is an additional \$8 to \$11 billion over budget for the remaining 16 to 22 miles of the Palmdale to Burbank route. Also, note that the E2 route would include a nearly one-mile bridge across both the 210 Freeway and the environmentally sensitive Big Tujunga Wash which is enormously expensive even if they could obtain a Clean Water Act permit from the Army Corp of Engineers. The total overage cost for this one section between Palmdale and Burbank is between \$15 to \$20 billion, which, all by itself will inflate, the estimated \$77 billion "base" budget for Phase 1 to between \$92 to \$97 billion or more, depending on the year of expenditure (YOE) calculations. Tunneling through the ANF is a budget buster.

1.4 The most important question is why, during a period in which Mr. Kelley, CEO of CHSRA, says the CHSRA was going to be more transparent, was the March 2017 Geotechnical Report purposefully not referenced in the 2018 Draft Business Plan?

1.4.1 I think that there is a likelihood that the disclosure of the findings in the March 2017 Geotechnical Report would reveal costs which make this project even more expensive and infeasible. The second to last thing that CHSRA wants or needs is to have these problems come to light before the 2018 Business Plan is considered by the State Legislature.

- 1.4.2 Maybe even more important to CHRSA is that there is an initiative on the June 5, 2018 ballot (Proposition 70) which affects Cap and Trade and its use for CHSR. The very last thing that CHSR wants is for the cost of the project to mushroom prior to the election.
- 1.4.3 If CHRSA had acknowledged the existence of the March 2017 Geotechnical Report, then it would be forced to estimate those costs in the 2018 Draft Business Plan. Ignoring the report might give them plausible deniability when the March 2017 Geotechnical Report receives widespread circulation at a later date after the 2018 Business Plan is approved and after the election in June 2018, but that is non-transparent and is contrary to the purpose of preparing a business plan.

2. 2018 CHSR BUSINESS PLAN ADOPTED BY CHSRA MAY 15, 2018

2.1 The California High Speed Rail Authority officially adopted the 2018 Business Plan at its meeting on May 15, 2018. The adopted 2018 Business Plan made some revisions to the Draft 2018 Business Plan but did NOT acknowledge the existence of or findings contained in the March 2017 Geotechnical Plan as detailed above. Instead CHSRA deleted the language about boring depths on page 19 of the 2018 Draft Report and inserted new language and expanding the section entitled "Drawing Upon International Tunneling Expertise" and added sections entitled "How We Enlist International Experience Today" and "Enlisting Even Greater International Expertise as we Move Forward". These can be found on page 22 and 23 of the adopted 2018 Business Plan and are included collectively as Exhibit 4.

2.2 Because of the devastating March 2017 Geotechnical Report, which was prepared by the Internationally acclaimed engineering firm of Kleinfelder, Inc., CHSRA has attempted to bury its finding and conclusions. The defects noted in the 2018 Draft Business Plan remain. CHSRA can say that it has or intends to hire international experts, but it has already hired and paid international experts, CHSRA just didn't like the results.

2.3 In its Adopted 2018 Business Plan CHSRA asserts as follows:

"In summary, although our tunnel sections are among the most challenging elements of the system, they are buildable. We are taking early and on-going actions to ensure that they are delivered successfully, just as they have been in other parts of the world."

This is an absurd conclusion from a entity the states that it will be engaging experts in the future and whose only geotechnical report from international experts is to the contrary. There is no

other such high-speed rail tunnel that exists at these depths with the geological challenges of earthquake faults as described in the March 2017 Geotechnical Report. In the 2016 Supplement Alternative Analysis (SAA) CHSRA eliminated the E-3 route through the Angeles National Forest because the "overburden" of 2,700 feet was too much to build the tunnel. However, the E-1 and E-2 routes have "overburden" of 2,000 to 2,600 feet, but for some undisclosed reason are disqualified. There may be international tunnels for Trains through granite at a depth greater than 2,600 feet, but as CHSRA has already concluded, this is tunneling through earthquake faults and tunneling at a depth of 2,700 feet is not acceptable.

2.4 Ironically, in an effort to prove its point CHSRA shows a photograph of a tunnel provided by the State of Washington. This is undoubtedly the tunnel through Seattle which was 1,300 feet below ground and in which the tunnel boring machine (TBM) named "Big Bertha" was stuck underground for about a year and had to be rescued by excavating a shaft 1,300 feet deep and about 50 feet in diameter. In the Angeles National Forest that shaft might have to be 2,600 feet deep and 60 feet in diameter into areas with possible earthquake faults. The Seattle Tunnel proves the point that this is not feasible.

2.5 The Adopted 2018 Business Plan also stated as part of the plan going forward that

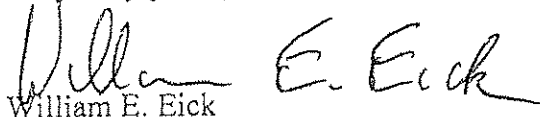
"We would also involve the panel in outreach to other experts at major tunneling conferences "Pg 23 (Exhibit 4)"

This would be a departure from past practices. The existence of the March 2017 Geotechnical Report was NOT disclosed to the Tunnel Talk conference at which CHSRA made a presentation. (See April 2018 video: Tunneltalk.com/TunnelEast.php) When I contacted Tunnel Talk they said they were unaware of the already existing March 2017 Geotechnical Report, but they said they would look into it. Attached as Exhibit 5 is a copy of that e-mail exchange.

CONCLUSION

On April 17, 2018 I testified at the CHSR Authority Board meeting and made the Board aware of the March 2017 Geotechnical Report, because I thought there was a possibility that the Board members and Brian Kelley, the new CEO, were unaware of its existence. Instead, on May 15, 2018 they adopted 2018 Business Plan full of the same deception and obfuscation. Given the opportunity to set the record straight they continued down the same path, afraid to confront inevitable conclusions of their own studies.

Very truly yours,


William E. Eick

Enclosures as Stated

Inspector General
May 29, 2018
Re: California High Speed Rail
Page 6 of 6

cc: Jeff Denham, Congressman

Office: Misc/SHPOA/CHSR16-3283/CHSR.InsptrGeneral