

Noncompliance with Funding Plan Certification?

By law, the California High Speed Rail Authority must approve a “Funding Plan” before requesting any bond money for construction.

The Legislature wanted to ensure that the Authority did not start building unless it was certain that enough of the system could be completed that the State would end up with a high-speed train service. There was a concern that once you started laying tracks, there would be an unfunded mandate to keep building. There were also worries that construction could be halted or delayed because of environmental reasons. The Legislature wanted these two major hurdles, **money** and **environmental review**, cleared for an entire segment before moving forward with a single mile of construction.

The CHSRA approved funding plans for two “Initial Operating Segments” at their November 2011 meeting.

The CHSRA identified both Bakersfield to San Jose and Merced to San Fernando Valley as potential usable segments and approved funding plans for both.

The Funding Plans failed to include a critical required certification about environmental clearance.

The Funding Plan has 11 required sections, including five certifications. For four of the certifications, the Authority provided a certification that met or exceeded the required certification. In the fifth case, the certification was rewritten in a way that it could be achieved but that appears to fall short of the required certification per the law.

Below are the provisions from Streets and Highways Code section 2704.08, subdivision (c)(2)(G) through subdivision (c)(2)(K) *in italics* and the certifications that the CHSRA made **in bold**:

(G) Construction of the corridor or usable segment thereof can be completed as proposed in the plan.

CHSRA: Construction of these Usable Segments, and the Initial Construction Section within them, can be completed as proposed by the Authority

(H) The corridor or usable segment thereof would be suitable and ready for high-speed train operation.

CHSRA: Upon completion of each Usable Segment, such segment would be suitable and ready for high-speed train operation.

(I) One or more passenger service providers can begin using the tracks or stations for passenger train service.

CHSRA: Upon completion of each Usable Segment, one or more passenger service providers can begin using the tracks or stations for passenger train service.

(J) The planned passenger service by the authority in the corridor or usable segment thereof will not require a local, state, or federal operating subsidy.

CHSRA: The planned passenger service by the Authority for the Usable Segments will not require a local, state, or federal operating subsidy.

(K) The authority has completed all necessary project level environmental clearances necessary to proceed to construction.

CHSRA: In connection with the Initial Construction Section [The ICS is the only portion of the Usable Segments for which Bond Act proceeds for construction are requested in this Funding Plan], the Authority will have, prior to expending Bond Act proceeds requested in connection with this Funding Plan, completed all necessary project level environmental clearances necessary to proceed to construction.

In this case, the Authority’s certification falls far short of the required one. The Authority does not have any project level environmental clearances. The project clearances for either of the potential Initial Operating Segments are not expected for years. Even for the more limited Initial Construction Segment, the Authority is planning to start construction without completing reviews, as the Fresno to Bakersfield section is experiencing delays because the CHSRA did not originally include an alternative that Federal environmental agencies thought should be studied.

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