2013 Almond Conference
High Speed Rail: There is a Train Coming

Julie Adams
Almond Board of California
High Speed Rail: There Is a Train Coming

Mark McLoughlin
Director, Environmental Services
California High Speed Rail Authority

Panel Discussion
Holly King, King & Gardiner Farms
Bill Harp, Fabbri Group
California High Speed Rail (HSR) Project

• First approved by voters in 2008

• The California legislature approved construction financing in July 2012 for the initial stage of the project

• Construction of the first segment between Madera and Fresno is set to begin within a few months; engineering, surveying and excavation work has begun

• Completion of the Central Valley portion is expected by 2017

• However, recent legal rulings leave the future of the $68 billion project in question
High Speed Rail: There is a Train Coming

Mark McLoughlin
Director, Environmental Services
California High Speed Rail Authority
HIGH-SPEED RAIL: MORE THAN A TRANSPORTATION PROGRAM

- California is 8th Largest Economy in the World

- Comparable to Northeast Corridor in Terms of Distance, Population and Complexity

- It is a Transformational Investment

- Connecting all California Population Centers
CONTROVERSY IS NOTHING NEW

• Transformational Projects Have Never Been Easy

• Golden Gate Bridge:
  • “Upside-Down Rat Trap that will Mar the Beauty of the Bay”
  • 2,000+ Lawsuits

• BART – Once Called the Train to Nowhere

• Calif. State Water System, University of Calif. System
  • Single-Vote Margins

• Where Would We be Without Them?
WHY HIGH-SPEED RAIL IN CALIFORNIA?

• Airport Congestion
  • Los Angeles to San Francisco is the Busiest short-haul market in US
  • 5 Million Passengers Every Year
  • One in Four Flights Delayed by an Hour or More

• Roadway Congestion
  • Six of Top 30 Congested Urban Areas in US Located in California

• Population Growth

• Air Quality/Sustainability
RESULTS FOR CALIFORNIA

• **Reduction in Vehicle Miles Traveled (VMT)**
  - By 2040, the system will reduce vehicle miles by almost 10 million miles every day
  - By 2030, the reduction in VMT would be like removing one 500-mile lane of cars

• **Daily Number of Flights Diverted**
  - Starting in 2030, the state will see a daily reduction of 93 to 171 flights
  - By 2040, the state will see a daily reduction of 97 to 180 flights

• **Statewide air quality improvement:**
  - Tons of volatile organic compounds reduced
  - Tons of particulate matter reduced
  - Tons of ozone precursors
ENVIRONMENTAL BENEFITS: HIGH-SPEED RAIL’S BEST KEPT SECRETS

- Preserving Agricultural Land
- Improving Air Quality
- Preserving and Enhancing Critical Habitat
- Reducing Greenhouse Gases
- Enabling Smart Land Use
- Urban Greening: Planting Trees
- Modernizing Transit Statewide
- Using Renewable Energy
• Work on Statewide Rail Modernization Program is Underway

• Construction: Direct, Indirect Jobs in Hard-Hit Sectors

• Permanent: Rail Modernization Creates Efficiencies Statewide
A STATEWIDE RAIL MODERNIZATION PLAN

Connects to Existing Systems

Phase I:
San Francisco to Los Angeles/Anaheim - 520 miles
- San Francisco to L.A. in Under 3 hours
- Speeds Over 200 MPH
- 14 Stations
- Completed by 2029

Phase II:
Extensions to Sacramento and San Diego - 800 miles
INITIAL OPERATING SECTION (IOS)

- Central Valley to San Fernando Valley
- 300 Miles
- First Step Towards a Statewide High-Speed Rail System - 2022
WHY START IN THE CENTRAL VALLEY?

• Central Valley will Serve as the “Backbone” of a System that will Tie Major Regions of California Together

• Fastest Growing Region in the State

• Availability of Federal Funding

• Ability to Advance the Project Faster and at a Lower Cost

• Testing and Certification of First High-Speed Equipment in the United States
BETTER AIR QUALITY FOR THE VALLEY

• Voluntary Emissions Reduction Agreement
• Working with the San Joaquin Valley Air Pollution District to provide:
  – New, clean buses for schools
  – Clean truck engines
  – Electrified irrigation pumps
• Maintaining air quality in one of the worst air sheds in the nation
• In the top ten worst for:
  – Ozone
  – Short-term particles
  – Year-round particulate matter
FIRST CONSTRUCTION SEGMENT

Multiple Construction Packages

Completion 2018
Merced to Fresno Project Section: 65 Mile Route
Environmental Clearances in 2012 Paved Way for Work to Begin

• **Construction Package 1**
  • 29 miles
  • Avenue 17 in Madera to East American Avenue in Fresno

• Contractor and Management Team In Place
  • Opened Offices in Downtown Fresno
  • Hiring Workers
  • Completing Designs
  • Conducting Field Work
  • Finalizing Third Party Agreements
Central Valley Next Steps

Fresno to Bakersfield Project Section: 114 Mile Route
Environmental Clearances Expected in Spring 2014

• Construction Package 2-3
  • 60 miles
  • East American Avenue in Fresno to One Mile North of the Kern/Tulare County Line
  • RFQ Released October 9
  • Statements of Qualifications Due December 13
Committed to preservation of important farm and agricultural lands and to mitigate effects of high-speed rail construction on agricultural operations

- Department of Conservation Agreement
- Agricultural Interest Settlement Agreement
- Agricultural Working Group
DOC AGREEMENT

Agreement with the Department Of Conservation

- **One-of-a-kind** agreement that will preserve nearly important farmland to off-set potential high-speed rail project impacts in the Central Valley
- For approximately every acre impacted, at least one acre will be preserved in perpetuity
- Willing Sellers: 5,000 acres of easements
- Program to Start in **2014**
Settlement Agreement for Preservation of Farmland

- Reached in 2013 with Central Valley Farm Bureaus to settle environmental mitigation
- Mutually beneficial agreement that integrates local expertise into the agricultural mitigation for the project
- $4 million mitigation fund established
NEXT STEPS: CLOSING THE GAP

- Continue Work in Central Valley, Bay Area, Southern California
- Work with Cities/Regions to Accomplish Broad Goals
- Connect Northern and Southern California - Close the Tehachapi Gap
- Fund Construction of the System  
  - Private Financing/Investors
  - Federal Grants/Loans
  - California Cap & Trade Revenue
  - TOD Revenues
  - Concessions
CALIFORNIA HIGH-SPEED RAIL AUTHORITY

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Questions and Answers
High Speed Rail: There Is a Train Coming

Holly King
King & Gardiner Farms
GET ENGAGED

• One Year Ago Today
• HSR Subject to Regulatory Process
  • Learn what that is
  • Figure out how to engage
  • Communicate
• Wetlands
  • Dig in to the numbers
  • Understand what the buttons are
  • Hired Biologist
  • Helped build case
Settlement Agreement – Merced to Fresno

- Recognizes total losses, not just right of way
  - Ag Land Loss Mitigation for Turnarounds
  - Jury out on compensation for loss of trees in Turnarounds

- Mitigation for Farmland Loss
  - Participation in development of selection criteria
  - Identification of the highest value lands to be targeted
  - Remainder Parcels included
  - First priority to landowners impacted by rail
Settlement Agreement (Cont.)

- Mitigation Rates
  - 1:1 for direct impacts
  - 1:0.5 for indirect impacts

- Funding – $5,000,000 additional mitigation funds
Settlement Agreement (Cont.)

- Factors in Valuation Process
  - Severance of a larger parcel, the diminution in value if the remainder parcel that does not conform to zoning
  - Ability of remaining parcel to maintain compliance with all regulations
  - Severance or other damages to the parcel
  - Information flow to appraiser
Opportunities to Participate – either or both

- **Severance Valuation Consultation Process**
  - At front end of valuation process – meet with CHSRA and their appraiser to share impacts

- **Pre-Litigation Mediation Process**
  - Panel of 7 mediators, approved by landowners, established by CHSRA
    - Landowner chooses one
    - Mediate value
Impact on the Farm

- 100 Ft Right of Way
  - Loss of Trees - Income
  - Goes beyond that!!!!
  - Can’t plant to the fence
- Irrigation System
  - Redesign
  - Reservoirs
  - Wells
- Remnant Parcels
  - Can’t Subdivide
- Equipment Movement
- Setbacks for Applications
- Reduction in Collateral Value
High Speed Rail: There Is a Train Coming
Options for Compensation
Fresno to Bakersfield

Bill Harp
An Almond Grower
Settlement Agreement
“Template” for Fresno to Bakersfield?

• Settlement Agreement – Merced to Bakersfield may be “template” for landowners (including almond growers) used by the HSR staff for the Fresno to Bakersfield section of the California High Speed Rail

• But the Settlement Agreement does not address all issues (in my opinion). If no Settlement/Compensation Agreement/Process for landowners on the Fresno to Bakersfield section then the process of “Eminent Domain” proceedings might be used if negotiations between landowners and HSR representatives fail

• The following presentation is adapted from the “Eminent Domain Summary” presented by California Farm Bureau Federation – Office of the General Counsel as presented on their website (see disclaimer in document concerning the fact that the information is not intended in any way to substitute for detailed legal advice from a competent private attorney)
Fair and Just Compensation Process
Fresno to Bakersfield Section

• Landowners should do the following:

  – Understand the overall process of Eminent Domain and possible settlement process

  – Meet with HSR staff/representatives at all opportunities to understand process, options, and offers

  – Find and retain competent legal representation early

  – Landowner should hire a competent agricultural appraiser to conduct his own appraisal (reimbursable by statue up to $5000). Appraiser must understand current “Fair Market” price for land with improvements (especially almond orchards)

  – Join or use landowners HSR-focused groups or committees (such as county Farm Bureaus, local committees, etc.) (possible coalition of landowner groups/committees for Fresno to Bakersfield Section)

  – Share costs of Legal representation and appraiser services where possible
Settlement Agreement
Merced to Fresno

• Recognizes total losses, not just right of way

• Mitigation for Farmland Loss

• Factors in Valuation Process

• Opportunities to Participate – either or both
  – Severance Valuation Consultation Process
  – Pre-Litigation Mediation Process

• If process fails, next option is process of Eminent Domain
Eminent Domain Process
Fresno to Bakersfield Section

• Landowners should do the following:
  – Understand the overall process of Eminent Domain
  – Find and retain competent legal representation early
  – Landowner should hire a competent agricultural appraiser to conduct his own appraisal (reimbursable by statute up to $5000) Appraiser must understand current “Fair Market” price for land with improvements (especially almond orchards)
Eminent Domain Process
Fresno to Bakersfield Section

• Normal Eminent Domain Process Steps (*not all possible steps or procedures*)
  – Agency Notice of decision to appraise
  – Agency conducts an appraisal
  – Agency makes written offer
  – Settlement or no Settlement
  – Agency holds public hearing
  – Absent a settlement, government files a condemnation hearing ("complaint of eminent domain")
  – Landowner files answer to complaint
  – Various filings by Agency and landowner follow
  – Trial follows (typically 12-18 months) after filing
  – Required mediation leading to possible settlement before trial
  – Landowner may request right to a jury trial
  – Decision of "just compensation" is made, and court may award "Litigation expenses" in addition (landowner needs to be aware of this issue and use competent legal representation and appraisal services)
Eminent Domain Process
Fresno to Bakersfield Section

• Elements of Compensation

  – Fair Market Value of property as determined by appraisal(s), settlement, or judge/jury

  – Severance Damages for “incurable” takings resulting in reduced value or remaining land and improvements

  – Cost to “Cure” impairments to value in lieu of “severance damages”

  – Loss of Goodwill, such as intangible or ancillary benefits of a unique location to a business

  – Relocation Benefits, such as costs to move a residence or business not captured or duplicated in other elements of compensation
Discussion and Questions?
Thank You
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