

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0047
(916) 319-2047
FAX (916) 319-2147

DISTRICT OFFICE
290 NORTH D STREET, SUITE 903
SAN BERNARDINO, CA 92401
(909) 381-3238
FAX (909) 885-8589

E-MAIL

Assemblymember.Reyes@assembly.ca.gov



COMMITTEES
AGING AND LONG-TERM CARE
BUDGET
JUDICIARY
LABOR AND EMPLOYMENT
UTILITIES AND ENERGY
BUDGET SUBCOMMITTEE NO. 2 ON
EDUCATION FINANCE
LEGISLATIVE ETHICS

February 24, 2021

Brian Kelly
Chief Executive Officer
California High-Speed Rail Authority
770 L Street, Suite 620
Sacramento, CA 95814

Re: Response to the Authority's October 7th Letter

Dear Mr. Kelly:

As the elected officials representing the city of Colton, and surrounding communities, we would like to thank the California High Speed Rail Authority (CHSRA) for following up our initial letter relaying our concerns with the air quality, traffic, and community outreach issues associated with the Colton BNSF Intermodal Facility.

While it is encouraging to hear that you are taking our concerns seriously, our communities have concerns that the current draft Environmental Impact Report/Environmental Impact Statement (Draft EIR/EIS) process will obviate our concerns if no change to CHSRA's engagement level occurs. If the outreach to date is the standard for future engagement it abandons the intent and spirit of multiple statutory frameworks, regulations and executive orders implemented to ensure that disadvantaged communities are not burdened by environmental hazards. We appreciate the outreach CHSRA has done up to this point however we believe that a more direct and engaged approach is necessary to resolve the concerns we have laid out thus far. We agree with you that there can always be more outreach and engagement with the public. It is because of this reason that we would like CHSRA to provide a plan detailing how our concerns related to outreach, air quality, and traffic will be resolved in the environmental review process.

The massive air quality and traffic impacts this project could have on our communities as well as the proximity of the project to our constituents necessitates direct consultation and engagement to ensure our communities have an active role in the decision-making process. As stated previously, to date we do not feel that this has happened.

Further cementing this, CHSRA selected a preferred alternative for the Los Angeles to Anaheim segment almost two years ago, absent the knowledge that the Colton and Lenwood facilities would be needed. The November 15, 2018 CHSRA staff report to

the CHSRA Board stated that “Staff based this recommendation on the conceptual engineering, environmental analysis, and numerous public, stakeholder and agency meetings conducted to date.” It is our understanding that public meetings **did not** include the city of Colton or neighboring communities but rather was limited to jurisdictions in the Los Angeles to Anaheim corridor.

In order to avoid these missteps in the future we believe that CHSRA should consider inclusive decision-making with disadvantaged communities to assure them that their concerns are being seriously considered. CHSRA should look to the California State Transportation Agency’s (CalSTA) Transportation Action Plan Strategies created pursuant to Governor Gavin Newsom’s Executive Order N-19-19 for guidance on how to include disadvantaged communities in the decision-making process. The Action Plan document includes two draft investment strategies which are particularly relevant to the Colton and Lenwood portions of the Project:

- ***“1. Reduce public health harms and maximize benefits to disproportionately impacted disadvantaged communities, low-income communities, and communities of color, in urbanized and rural regions and involve these communities early in decision-making. Investments should also avoid placing new or exacerbating existing substantial burdens on communities, even if unintentional.*”**
- ***7. Progress towards developing a zero-emission freight transportation system that avoids and mitigates environmental justice impacts, reduces criteria and toxic air pollutants, improves freight’s economic competitiveness and efficiency, and integrates multi-modal design and planning into infrastructure development on freight corridors.”***

As representatives of disadvantaged communities we feel that the form of outreach laid out by CalSTA is entirely appropriate for this project. The cities of Colton, Grand Terrace, and San Bernardino, plus the nearby unincorporated Bloomington area and City of Rialto, all have a majority of census tracts with CalEnviroScreen scores above the 80th percentile. Compounding this, the cities of Colton, Rialto, and San Bernardino have been identified by the Southern California Association of Governments (SCAG) as a “Communities of Concern.” These are Census Designated Places (CDPs) that represent the top 33 percent of minority and low-income residents in the SCAG region. Our constituents are the most disadvantaged of the disadvantaged communities and they deserve to be a part of this process. We don’t believe that our communities have received anything near “involve these communities early in decision-making” as of yet.

Given the concerns we have laid out, we ask that CHSRA include our communities in the decision-making process beyond just providing technical assistance. We acknowledge that COVID-19 restrictions have made it difficult to provide the level of engagement we ideally would like to see in public processes however as we continue working with these restrictions throughout 2021 we need to provide inclusive ways for communities to be involved in projects that impact them.

As was mentioned before in our previous letter, we have numerous concerns with this project related to the harmful air quality impacts it could bring to our

communities. In addition to addressing these issues we would also like CHSRA to work and incorporate the suggestions the California Air Resources Board (ARB) suggested in their December letter. As the lead agency on air quality and environmental protection we think it is entirely appropriate for their involvement on this issue. Specifically we would like CHSRA to work with ARB on including, but no limited to, the following suggestions:

- **Provide substantial evidence supporting their selection of the CalPortland Cement Site for the proposed intermodal Facility.** It is our understanding that the Revised Notice of Presentation does not provide any evidence to support the selection of the CalPortland Cement site to service the 10 daily freight diesel-powered line-haul locomotive trips. Given the existing air quality of the region as well as the potential addition of hurtful emissions and particulate matter to our community we also believe that CHSRA should evaluate alternative locations for the proposed intermodal rail facility in the Draft EIR/EIS. The criteria used to evaluate these alternatives should include the air quality impacts of the rail facility's proximity to existing and future proposed residences as well as other sensitive receptors.
- **The Draft EIR/EIS Should Include a Mitigation Measure that Ensures the Project Uses the Cleanest Switcher and Line-Haul Locomotives Available.** We would like CHSRA to require the use the cleanest available switcher and line-haul locomotive fleets within the Project area, including the proposed intermodal rail facility in Colton. Zero-emission technology is advancing rapidly and quickly becoming commercially viable. As part of the Draft EIR/EIS we would like to see a technical assessment between CHSRA and BNSF on how to implement this technology.
- **The Draft EIR/EIS Should Include an Alternative Where Zero-Emission Trucks are Used to Transport Cargo Rather than Line-Haul Locomotives.** CHSRA should include an alternative in the Draft EIR/EIS that requires BNSF to exclusively use zero-emission light, medium, and heavy-duty trucks to replace the 10 daily diesel-powered line-haul locomotive trips displaced by the Project until the line-haul locomotives can operate in zero-emission mode for the entirety of their operation in the State. According to ARB, transporting freight by trucks is expected to be the cleaner mode of transport in the near future due to the numerous clean truck regulations that is decarbonizing the industry and the rapid the development of zero-emission vehicle technology. The Draft EIR/EIS should include analysis on the air pollutant emission benefits of exclusively using zero-emission light, medium, and heavy-duty trucks to transport freight until line-haul locomotives servicing the facility can operate in zero-emission mode for the entirety of their operation in the State.

- **The Draft EIR/EIS Should Quantify and Discuss the Potential Cancer Risks at Residential and Other Sensitive Receptors in the vicinity of the Proposed Rail Facilities Located in Colton and Lenwood.** As mentioned earlier and in our previous letter we are incredibly concerned with the public health impacts this project will bring to our communities. Our communities are already breathing some of the dirtiest air in the state and we do not want to add unnecessary health risks to our constituents. Due to these concerns we would like CHSRA to prepare a health risk assessment that shows the potential health risk impacts that will result from the construction and operation of the proposed rail facilities located in Colton and Lenwood. In addition to the health risks associated with operations, construction health risks should be included in the air quality section of the Draft EIR/EIS and the Project's health risk assessment.
- **The Draft EIR/EIS Must Include an Analysis of the Project's Cumulative Impact on Air Quality and Public Health.** No project exists in a vacuum, comprehensive analysis, with community input, is the only way to truly determine the impacts of a project on a community. To this end the Draft EIR/EIS should consider the combined air quality and health risk impacts of the proposed intermodal rail facility, existing rail facilities, and other probable future rail facility projects in San Bernardino County.
- **CHSRA and BNSF Must Implement All Feasible Mitigation Measures to Reduce the Project's Impact on Air Quality and Public Health.** The proposed intermodal rail facility has the potential to expose existing or future residences or other sensitive receptors such as schools, nursing homes, daycare centers, and recreation facilities to air pollutant emissions that will result in additional significant cumulative impacts on public health. In order to avoid these harmful impacts CHSRA should implement all feasible mitigation measures to reduce the Project's impact on air quality and public health to a less than significant level. Some mitigation measures that should be included in the Draft EIR/EIS should be:
 - Requiring all off-road diesel-powered equipment used during the construction and operation of the Project to be equipped with Tier 4 or cleaner engines, except for specialized equipment for which Tier 4 engines are not available. In place of Tier 4 engines, off-road equipment can incorporate retrofits such that emission reductions equal or exceed that of a Tier 4 engine. Require all on-site equipment (e.g., yard hostlers, yard equipment, forklifts, and pallet jacks, etc.) used within the proposed intermodal rail facility site to be zero-emission. With the current availability of zero-emission off-road equipment the on-site equipment supporting the operation of the proposed intermodal facility can be completely zero-emission at the start of operation.

- Requiring all heavy-duty trucks entering or on the Project site to be model year 2014 or later, expedite a transition to zero-emission vehicles, and be fully zero-emission beginning in 2035.
- Providing the necessary infrastructure to support zero-emission vehicles and equipment that will be operating on site.
- Requiring all rail cars with transport refrigeration units (TRU) entering the intermodal rail facility to be plugged-in to electric power until they are ready to be transported directly out of the facility.
- Requiring all loading/unloading docks and trailer spaces be equipped with electrical hookups for trucks with TRU or auxiliary power units. This requirement will substantially decrease the amount of time that a TRU powered by a fossil-fuel internal combustion engine can operate at the project site. Use of zero-emission all-electric plug-in TRUs, hydrogen fuel cell transport refrigeration, and cryogenic transport refrigeration are encouraged and can also be included in lease agreements.

We believe partnering with relevant agencies and community stakeholders is imperative to address the concerns and suggestions we have laid out here. In your response letter CHSRA stated that the Draft EIS/EIR is anticipated to be released sometime in mid-2021. We hope that with the remaining time left the report/survey will resolve the issues outlined above and previously. We need to be partners in addressing and mitigating the negative environmental impacts of projects such as the Colton BNSF Intermodal Facility. We look forward to continuing the existing dialogue in a collaborative manner that will fully integrate the needs of our local communities in the Inland Empire, as well as involve the residents and community leaders that stand to be greatly impacted by this project.

Sincerely,



Assembly Majority Leader
Eloise Gómez Reyes
Assembly District 47



Senator Connie Leyva
Senate District 20