Comments Prepared by Ted Hart and Mark April 6, 2014


The comments herein are organized as follows. They are organized first by 2014 Plan Chapter and then by Section within a Chapter. For some comments, wording in the 2014 Plan is first cited in order to put the comment in context.

History of High-Speed Rail in California

Draft 2014 Business Plan ("2014 Plan") Wording:

"In 1996, the Commission issued a report that concluded that such a project was indeed feasible."...

Comment:

The Commission went on to say that the high-speed rail project first needed a funding mechanism and that no progress could be made until the voters had approved a funding mechanism nor could an operating firm be selected. The Authority kept the "feasible" part of the Commission's statement and ignored the recommendation that made it feasible. Eighteen years have passed since the cited statement was made and during all of this time the Authority has never developed a funding mechanism for building a statewide high-speed rail system.

- The Final 2014 Business Plan must tell the public how much the statewide system would cost, when it will be completed, and how it will be paid for.

Statutory Requirements for a Business Plan

Draft 2014 Business Plan Wording:

"AB 528 (Lowenthal)....

.....(b) (1) The business plan shall include, but need not be limited to, all of the following elements:

(A) A description of the type of service the authority is developing and the proposed chronology for the construction of the statewide high-speed rail system, and the estimated capital costs for each segment or combination of segments.....

.....(E) An estimate and description of the total anticipated federal, state, local, and other funds the authority intends to access to fund the construction and operation of the system, and the level of confidence for obtaining each type of funding.(emphasis added)

Comment:

The 2014 Business Plan fails to meet the plain language of AB 528 in that:

It does not provide a chronology for the construction of the statewide high-speed rail system because it fails to provide a chronology for the construction of segments extending Phase 1 to Sacramento and San Diego (Extensions).

It also does not provide estimated capital costs for the Extensions. Without knowledge of capital costs for the Extensions it has no basis for estimating, describing and providing a confidence for obtaining each type of funding. Aside from the funds required for the Extensions, the 2014 Plan fails to provide a confidence level for obtaining the funds to Build Phase 1 and for building the IOS between Merced and San Fernando."
Extensions, the 2014 Plan fails to provide a confidence level for obtaining the funds to Build Phase 1 and for building the IOS between Merced and San Fernando.

The language cited from AB 528 uses the word “system” only twice. The first use is with the term “statewide high-speed rail system” [185033(b)(1)(A)]. The second usage is regarding the “construction and operation of the system.” [185033(b)(1)(A)] The “system” must be taken to mean the “statewide high-speed rail system”. Therefore, statute written in AB 528 is telling the Authority and the public that the Draft 2014 Business Plan is deficient.

The Final 2014 Business Plan must explain to the public:

- when each segment of the statewide system will be completed, including the Extensions;
- how much each segment will cost;
- where the funds will come from to build each segment; and
- the Authority’s confidence in obtaining those funds.

Executive Summary

Draft 2014 Business Plan Wording:

Ridership and Farebox Revenue Forecasts

“They also show lower farebox revenues than projected in the 2012 Business Plan, ranging from 5 percent lower in 2025 to 10 percent lower in 2040.”

Operations and Maintenance Cost Estimates

“The updated estimates for the 2022 through 2060 analysis period show an approximately 14 percent increase from the cost estimates shown in the 2012 Business Plan.”

Lifecycle Cost Forecasts (Capitalized Maintenance)

“The 2012 estimate projected that, relative to the amount of the original capital investment in the Phase 1 system, approximately 4 percent of the system would require replenishment between 2022 and 2060. The updated 2014 estimate projects that approximately 13 percent of the original capital investment would need to be replenished over that same timeframe, with the majority of that investment occurring after 2050.”

Comment:

The changes to Revenue and O & M costs alone result in Net Cash falling by about 30% in the years 2025 to 2060 from the Medium Scenario used in the 2012 Business Plan.

Net Cash does not appear to capture Capitalized Maintenance costs which rise from 4% of the investment to 13% of the initial investment. Using $68 billion as the initial investment, Capitalized Maintenance Costs rise from $2.7 billion to $8.8 billion in 2011 dollars. Inclusion of the $8.8 charge to Net cash flow further erodes Net Cash flow to about 50% of the 2012 Business Plan. Yet the 2014 Plan makes the statement that these revisions, “does not affect the amount of funding needed from
government sources or the overall operational viability of the system.” Clearly with only 50% of the Net Cash flow envisioned in the 2012 Plan, the private investment, which is given in exchange for future cash flow, must go down significantly with the new shortfall being made up by government sources. In fact, the 2012 and 2014 Plans do show Private Investment shrinking from $13 billion to $8 billion and this shrinkage must be made up by government sources.

**The Final 2014 Business Plan must explain to the public how net cash flow can substantially decrease along with Private Investment without affecting “the amount of funding needed from government sources or the overall operational viability of the system.”**

**Section 1: Connecting California**

**BUILDING CALIFORNIA’S FUTURE: WORK IS UNDERWAY**

**Draft 2014 Business Plan Wording:**

“A central principle established in the 2012 Business Plan, and reaffirmed here, is that each phase must have independent value; specifically, it must be a usable segment and all funds required for its completion must be identified before construction begins.”

**Comment**

This is what the 2014 Plan says, but the 2014 Plan then contradicts itself by showing $21 billion in “uncommitted funds” necessary to complete the IOS. To make matters worse, the Authority is now commencing construction of the IOS without identifying all funds required for its completion. The 2014 Plan mentions Cap and Trade as a funding mechanism, but the Authority needs an additional $2,625 million per year over the 8 year construction schedule and what the Governor has proposed to allocate this year, $250 million, is less than a 10th of what is need each year.

Moreover, the Authority might need even more to complete the IOS. The Revised 2012 Business Plan (“2012 Plan”) provided high and low cost estimates for different segments of Phase 1, including the IOS. In this and previous business plans the Authority consistently uses the low estimate for “planning purposes”. However, in light of the Authority’s track record of escalating costs, the high estimate seems the more appropriate planning tool. Now in this 2014 Plan the Authority does not even provide the high range of cost estimates.

Previous business plans have referenced the need for low and high cost estimates “depending upon the completion of environmental work and selection of a final alignment.” These low and high cost estimates need to be included until all environmental work is complete and the final alignment of all segments of Phase 1, including the IOS, are completed.

**The Final 2014 Business Plan must:**

- continue to provide a range of costs associated with each segment, including the Extensions to Sacramento and San Diego, until final alignments are chosen. As of the writing of the 2014 Plan
the only final alignment chosen is associated with the 29 miles along the Merced to Fresno section north of Fresno.

- show the source of funds need for both low and high cost estimates associated with each section, including the Extensions
- show Cap and Trade funds, along with their confidence level in obtaining these funds as a specific line item along with other sources needed to fill any funding gaps.

INVESTING IN CALIFORNIA’S FUTURE
Draft 2014 Business Plan Wording:
“California’s major airports are also hitting their capacity limits.”

Comment
The Authority has been making this claim since 1999/2000 when the Statewide High-Speed Rail Program EIR/EIS was initiated. In that document the Authority claimed 5 new runways and 90 new gates would be needed by 2020. The year 2020 will come and go exposing this lie and by the Authority’s own schedule no one will be riding a high-speed train between San Francisco and Los Angeles in 2020. In the Los Angeles Basin Palmdale Regional Airport remains closed for lack of business; Ontario Airport is struggling to find business; Long Beach Airport is losing business. Between 2000 and 2012 Burbank Airport (now Bob Hope Airport) saw total passenger enplanements drop for 2.4 million per year to 2.0 million per year. And to the general public, the other regional airports appear to be providing good service...at least good enough to not bother flying out of Ontario, Long Beach, Burbank, or clamoring for the reopening of the Palmdale Airport.

- The Final 2014 Business Plan must refrain from making generally untrue statements about existing infrastructure hitting capacity limits and instead state specifically where problems with capacity do exist as well as where excess capacity resides.

STARTED WORK ON THE FIRST SEGMENT OF HIGH-SPEED RAIL
Draft 2014 Business Plan Wording:
“We also continue to evaluate the potential for interim service, potentially with Amtrak San Joaquin trains, on the first construction segment with our federal, state and local transportation partners, consistent with the principle that each program phase can stand alone and have independent utility.”

Comment
Proposition 1A and AB3034, the law that put Proposition 1A on the ballot, never used the words “independent utility”. The Authority is to build “usable segments” of high-speed rail and not start building such a segment until all funds necessary to complete it are secured. It is inconceivable that environmental clearances for track running from Merced to Bakersfield for use by Amtrak could ever be
granted under California's CEQA guidelines. Only as part of a complete statewide system, as proposed in the 2005 Statewide High-Speed Rail Program EIR/EIS, can Project Level EIR/EIS's be approved.

- The Final 2014 Business Plan must refrain from making spurious arguments about an incomplete IOS having “independent utility”. “Independent Utility” is a term used in the Federal Grant Agreements that contemplates using an uncompleted high-speed rail “usable segment” for some other less beneficial purpose. The Authority's funding plans, mandated by statute, are meant to assure that this will not be necessary.

ADVANCE COMPLETION OF ENVIRONMENTAL REVIEWS

Draft 2014 Business Plan Wording:

"Completed and Projected Milestones for the Environmental Review Process by Section"

<table>
<thead>
<tr>
<th>PROJECT SECTION</th>
<th>Forecast Completion per 2014 Plan</th>
<th>Forecast Completion per 2012 Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>San Francisco to San Jose*</td>
<td>Summer 2017</td>
<td>December 2014</td>
</tr>
<tr>
<td>San Jose to Merced</td>
<td>Fall 2016</td>
<td>December 2013</td>
</tr>
<tr>
<td>Merced to Fresno</td>
<td>Completed September 2012</td>
<td>June 2012</td>
</tr>
<tr>
<td>Fresno to Bakersfield</td>
<td>Spring 2014</td>
<td>December 2012</td>
</tr>
<tr>
<td>Bakersfield to Palmdale</td>
<td>Fall 2015</td>
<td>February 2014</td>
</tr>
<tr>
<td>Palmdale to Los Angeles</td>
<td>Summer 2015</td>
<td>October 2013</td>
</tr>
<tr>
<td>Los Angeles to Anaheim</td>
<td>Spring 2016</td>
<td>December 2014</td>
</tr>
<tr>
<td>Los Angeles to San Diego</td>
<td>(Phase 2) TBD</td>
<td>TBD</td>
</tr>
<tr>
<td>Merced to Sacramento</td>
<td>(Phase 2) TBD</td>
<td>TBD</td>
</tr>
</tbody>
</table>

NOTE: The Forecast Completion per 2012 Plan was added by the commenter for illustrative purposes.

Comment:

Notice that EVERY Environmental Review has suffered slippage of its scheduled completion date between the issuance of the 2012 and 2014 Plans. Two sections have suffered more than two years of slippage over the past two years. In other words, the estimated date for completion these environmental reviews is farther out in the future now than was the case two years ago. This type of endemic slippage is one reason why Proposition 1A requires that all environmental reviews for a “usable segment”, such as the IOS, be complete before accessing bond funds to begin construction. Moreover, AB 528 requires that all Business Plans show scheduled completion dates of environmental reviews for all segments of the statewide high-speed rail system. No “TBD” is allowed.

The Final 2014 Business Plan, in order to show a program noncompliance with all applicable statutes, must be revised to:

- show completion dates for the Environmental Review Process for all Project Sections; and
- show that construction on the IOS is not commenced until Environmental Reviews are complete on the Fresno to Bakersfield, Bakersfield to Palmdale, and Palmdale to Los Angeles segments.
Section 3: Capital and Lifecycle Costs

Comment
The 2012 Plan showed a range of possible costs for each segment. This was because the final alignment of each section had yet to be determined. The Authority spent the bulk of their Plan elaborating on the low end of the cost ranges, their “planning scenario”, but at least they provided a possible range of costs based on the final alignment chosen. Now the Authority in its 2014 Plan only provides costs for the low end of the cost range and does not even allude to high cost alignments. This is an attempt to deceive the public and the press. Not only should the Authority show the possible high end of the cost ranges for each segment, their funding plan should provide funds for the higher level. Of course, this would not be necessary if all environmental reviews were in place making it possible to chart a final alignment before beginning construction.

The 2014 Plan also skimps on showing when funds will be spent on various proposed segments. For instance, the 2012 Plan showed expenditures by year for the 8 year construction of the IOS. The 2014 Plan merely shows the total cost per segment with no mention of when the funds are spent.

A second deception being practiced by the Authority in their 2014 Plan is the dropping of the term “Phase 1 Blended”. What was described as “Phase 1 Blended in the 2012 Plan is now termed simply “Phase 1”. In addition, the 2012 Plan included a cost provision to actually build at true “Phase 1” that did not share track with commuter lines. Any mention of these additional costs has been dropped from the 2014 Plan.

The Final 2014 Business Plan and all future business plan must:
• show a high and low range of cost estimates for each section until all environmental review are complete and a final alignment is chosen;
• break out capital cost per year for each segment where the final alignment has been chosen;
• as a matter of truthfulness, continue to call use of commuter rail in the segment linking San Francisco to Los Angeles “Phase 1 Blended”.
• show costs and a completion date for “Phase 1”, a dedicated, non-shared track, true high-speed line linking San Francisco to Los Angeles until such time when the independent Peer Group has determined that “Phase 1 Blended” can meet all of the performance criteria spelled out in existing statute (i.e. 2hr. 40min. travel time, headway criteria, one-seat ride, etc.).

Section 6: Financial Analysis and Funding

Funding of Capital Costs
Draft 2014 Business Plan Wording:
"Second, a committed, long-term source of funding (Cap and Trade Fees) will allow the Authority to leverage both public and private financing and, depending on the level of commitment, potentially finance the completion of the IOS."

Comment:
The Final 2014 Business Plan must:
• quantify in terms of funding source (by year) the expression, “leverage both public and private financing”; and
• show that Cap and Trade Fees dedicated to high-speed rail will actually fill the funding gap for the IOS and not just at the low end of possible costs, but at the high end as well. Showing the ability to cover high end costs is necessary until a final alignment is chose. The ability of Cap and Trade Fees to “potentially finance” the IOS’s funding gap is unacceptable. The term “potentially finance” is not found in the AB3034, the statute behind Proposition 1A – the Safe Reliable High-Speed Passenger Train Bond Act of the 21st Century.

Section 7: Economic Impact
Draft 2014 Business Plan Wording:
The 2014 Plan quantifies the net present economic benefits of high-speed rail at $45.6 billion (Exhibit 7.2).

Comment
The majority of the benefit is to be derived from travel “time savings” and most of this benefit is derived from travelers switching from automobile to the faster train. This benefit stands in stark contrast to the environmental benefits of high-speed rail touted in the Statewide High-Speed Rail Program EIR/EIS (2005 Program EIR).

The 2005 Program EIR compared the High-Speed Train Alternative to a “No Project Alternative”, which was found infeasible in that it would not meet the transportation needs of Californians in the year 2020, and to a “Modal Alternative” that involved building 3000 lanes of freeways, 90 new airport gates, and 5 new runways to meet Californians’ transportation needs in the year 2020. The High-Speed Rail Alternative was approved because it would do less environmental harm than the Modal Alternative. The Authority touted the advantages of high-speed rail over the Modal Alternative for the first decade of the 21st century in terms of cost savings and less impact on the environment. In the Authority’s December 2009 Report to the Legislature the Authority wrote, “Over the next two decades, California’s high-speed train will alleviate the need to spend more than $100 billion to build:
• 3,000 miles of freeway
• Five airport runways
• 90 departure gates"

This claim made for the years 2010-2030 was identical to made in ten years earlier in the 2005 Program EIR for the years 2000-2020.
The Draft 2012 Business Plan repeated this claim with only slightly different numbers and at a cost of $171 billion in year-of-expenditure dollars:

- 2,300 new miles of highways
- 115 new airport gates
- 4 new runways

With the year 2020 expected to arrive before any high-speed rail is built, and with no obvious need for additional airports and freeways linking San Francisco and Los Angeles (i.e. the "No Project Alternative" appears to be meeting the travel needs of Californians) the Authority's more recent business plans, including the Draft 2014 Business Plan, have refocused their argument for the benefits of high-speed rail. Now the benefit to Californian's will be derived primarily by savings in travel times. Seventy percent of the economic benefits of high-speed rail will supposedly be derived by savings of time and productivity associated with drivers switching from automobiles to train travel.

The May 18, 2012 California High-Speed Rail Peer Group Report takes issue with these savings of time and productivity writing, “there is no single and authoritative evaluation of the (cost-benefit) results. We therefore believe that the results should still be viewed as needing further confirmation and refinement.”

The 2014 Plan states that this recommendation has been completed by the General Accounting Office of the Federal Government and that its recommendations have been incorporated into the cost-benefit analysis. However, the benefits are associated with Phase 1 and that is not what the Authority is seeking to construct, nor does it seek to construct the statewide system approved in the 2005 Program EIR. Instead it seeks to build only the IOS from Merced to San Fernando.

- The Final 2014 Business Plan should show the benefits associated with the IOS since that is what the Authority seeks to build. Since they lack the demonstrated funds to build even this segment it seems inappropriate to look at benefits of a more extensive system.

General Comments 1

- The Authority’s comparison of its high-speed rail project to past infrastructure projects is disingenuous, inappropriate, and insulting to those who built California’s infrastructure. It should stop making these comparisons.

The Authority’s plans have a history of comparing their high-speed rail project, its funding difficulties and schedule slippage as well as vocal public outrage against their project, to other past infrastructure projects; the California Freeway and Water Projects, the Golden Gate Bridge, and the California University System. Fortunately for the Authority, the men and women who built these projects are mostly dead and cannot speak with outrage against their projects being compared to the debacle of the high speed rail project. For instance, the California Freeway project was a 20 year vision and at the end of 20 years the vision was in place and paid for without taking on government debt. The Interstate
Highway System was funded with a dedicated federal gas tax. The Golden Gate Bridge was fully funded from its inception and completed on time and on budget. The Water and University projects were likewise fully funded and built on schedule.

As a comparison, it has been 21 years since the California Intercity High-Speed Commission was charged with developing a 20 year plan, similar to California's former Freeway Plan and the means to fund the plan. It has been 18 years since the Authority took over the work of the Commission and not one inch of rail has been laid. Moreover, no funding plan to build a usable segment of high-speed rail has ever been developed. Under the Authority's stewardship, the year of completion for high-speed rail linking San Francisco to Los Angeles has been pushed out from 2007 to 2029 and even that project has been degraded to one using conventional rail infrastructure at the "bookends". And none of the Authority's plans spell out the cost or timeframe for completing the statewide high-speed rail system that in 1996 was thought possible by the year 2010.

General Comment 2
- No Project Level High-Speed Rail EIR should be approved until a new Statewide Program Level EIR has been conducted.

The 2005 Statewide High-Speed Rail Program EIR/EIS (2005 Program EIR) has been made obsolete by the passage of time and by the failures of the Authority to fund the statewide project and to move forward with the project on a schedule anticipated by the 2005 Program EIR. The 2005 Program EIR was in development for nearly 5 years and in places cites as baseline data the travel patterns of Californians as well as the condition of California roads, rail, and airports in the years 1999-2000. The Program EIR will be 17 years old when high-speed rail is currently projected to connect Merced with San Fernando and it will be 25 years old when the Phase 1 Blended is projected to connect San Francisco to Los Angeles. A reasonable estimate is that it would be 40 years old when the originally envisioned statewide system is finally completed. However, the California High Speed Rail Authority has not estimated a completion date for the Statewide HST System since the 2005 Program EIR was certified.

The 2005 Program EIR made key assumptions Regarding High-Speed Rail. It was to be a Statewide HST System connecting all of the state's major population centers (Bay Area, Sacramento, Los Angeles Basin, and San Diego)

The Statewide HSR System was to be complete and operable by 2020.

The proposed Statewide HSR System was compared to two alternative transportation approaches; the "No Project Alternative" and the "Modal Alternative".

The "No Project Alternative" looked at transportation infrastructure in 1999-2000 and projected it out to the year 2020 if California continued to build transportation infrastructure as currently being planned.
This alternative was found to be "neither a viable nor realistic alternative for meeting California's future intercity travel demands."

The "Modal Alternative" considered a set of hypothetical improvements (2,970 additional lane miles—two additional lanes on most intercity highways and as many as four additional lanes in some segments, 90 new airport gates, and 5 new runways statewide all at a cost of $82 billion). The 2005 Program EIR concluded that the Modal Alternative, while an improvement over the No Project Alternative, "would not be as safe or as reliable as the HST Alternative. Moreover, the Modal Alternative would have greater potential for significant environmental impacts than the HST Alternative".

The 2005 Program EIR assumed a project timeline—Based on 2000 Business Plan (most recent plan):
- 3-4 years to complete Project Level EIR's (Tier II)
- 7 additional years to complete HST system connection San Francisco to Los Angeles
- 3 additional years to complete entire Statewide HST System linking to Sacramento and San Diego

Taken at face value, the 2005 Program EIR justified the environmental impacts of the Statewide HSR System because the Statewide HSR System solved a transportation problem with less impact than the Modal Alternative and because the No Project Alternative was not a viable or realistic alternative for meeting the state's transportation needs. However, numerous and significant events affecting the HSR project have occurred over the 14 since the 2005 Program EIR was initiated.

A funding plan for building the Statewide HST System has never been developed.

The Statewide HST System might be built over the next quarter century in long delayed phases. There is no funding plan for completing even the first of these phases (the IOS linking Merced to San Fernando).

The No Project Alternative has been found by default to adequately meet the needs of Californians.

The Modal Alternative has been found to be unnecessary.

These are all valid reasons why the 2005 Program EIR is no longer an appropriate environmental planning tool. Consider the following. The recently certified Merced to Fresno Project Level EIR and the about to be certified Fresno to Bakersfield Project Level EIR both must reference the 2005 Program EIR and its benefits in order to justify the environmental impacts of these two projects. However, the lead agency (the California High-Speed Rail Authority) has no credible means to ever complete the Statewide HSR System thereby ensuring those benefits. Fortunately, provisions of the California Environmental Quality Act (CEQA) pertaining to Tiered EIR's seem to now preclude the lead agency from referencing the now obsolete 2005 Program EIR and its benefits. Quoting from CEQA:

Regarding (C), no Project Level EIR was certified within three years of the 2005 Program EIR and some may not be certified within 25 years of the 2005 Program EIR. After all, construction of the Extensions
Regarding (C), no Project Level EIR was certified within three years of the 2005 Program EIR and some may not be certified within 25 years of the 2005 Program EIR. After all, construction of the Extensions to Sacramento and San Diego are not likely to begin until after completion of Phase 1 in 2029 (or later) and Project Level EIR's certified years or decades ahead of commencing construction would certainly need to be redone.

Regarding (E) the lead agency can hardly continue claiming that the No Project Alternative and Modal Alternative remain “infeasible” even though California appears to be getting along quite well with the No Project Alternative. In fact, the 2014 Plan seems to tacitly admit that the “No Project Alternative” is in fact feasible by claiming that the economic benefits of HSR derive chiefly from “travel time” and “travel efficiency” savings.

Therefore, Project Level EIRs cannot justify their environmental impacts (damage) by referencing the environmental benefits of the Statewide HST System alluded to in the 2005 Program EIR. Without making this reference it is inconceivable that Project Level EIR’s showing serious environmental impacts in the Central Valley can be properly certified.

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April 6, 2014