

County votes to sue over high-speed rail review

By John Cox and James Burger

Bakersfield Californian, Thursday, June 5, 2014

The Kern County Board of Supervisors voted this week to file a high-speed rail lawsuit its attorney previously said it wouldn't win.

Authorized Tuesday on a 4-1 vote behind closed doors, the suit is expected to allege that an environmental review approved last month by the California High-Speed Rail Authority violates provisions of the California Environmental Quality Act.

County Counsel Theresa Goldner said Wednesday the suit will target the rail authority's review of the 114-mile alignment proposed between Fresno and Bakersfield. She said the suit will be filed no later than Friday to meet a Monday deadline.

On May 20, Goldner told the board that such a lawsuit was a bad idea. She said her office looked into the possibility of a lawsuit but at that point had not identified any information that would "indicate that such a suit would prevail in court."

But since then, she said, her office has taken a closer look in consultation with high-speed rail opponents including Kings County and others.

Goldner said the lawsuit will allege:

- The environmental review relied on an inadequate project description that left out things like electrical infrastructure changes, the location of staging areas and parking facilities;
- Inconsistencies between the draft review and the final version, such as a 14 million cubic yard, 127 percent difference in the amount of fill material needed to complete the Fresno to Bakersfield section;
- "Improper piecemealing" of the project's impacts — specifically, a failure to consider the combined effects of the Fresno-to-Bakersfield section and the Fresno-to-Merced portion;
- The review did not analyze the route's cumulative impacts on air quality; and
- The draft review neglected to look at how the project would limit access to Central Park at Mill Creek and the Kern River Parkway.

The sole vote against filing the suit was cast by board Chairwoman Leticia Perez, who said Wednesday she doesn't think a CEQA lawsuit is the best tool to use to hold the rail authority accountable.

The county is already involved in a lawsuit, now under appeal, challenging the way the authority plans to use voter-approved bonds to fund the project. Perez said the rail authority must be held accountable for the way those bonds are spent.

"I feel the bond validation (lawsuit) is really the place to put our efforts. It's where we're going to get the most bang for our buck," Perez said.

The city of Bakersfield is also planning to sue the rail authority over the rail authority's environmental review. The City Council approved the filing of such a suit on a 6-1 vote behind closed doors May 21.

City Manager Alan Tandy called the environmental review a "horribly prepared document" that was "deficient on its face."

The rail authority did not respond to a request for comment Wednesday.