

Channel Law Group, LLP
207 East Broadway, Suite 201
Long Beach, CA 90802

1 JAMIE T. HALL (Bar No. 240183)
2 JULIAN K. QUATTLEBAM (Bar No. 214378)
3 CHANNEL LAW GROUP, LLP
4 207 E. Broadway, Suite 201
5 Long Beach, CA 90802-8824
6 Telephone: (310) 982-1760
7 Facsimile: (562) 394-1940

8 Attorneys for Petitioner,
9 FIRST FREE WILL BAPTIST CHURCH OF BAKERSFIELD,
10 a California Nonprofit Religious Corporation

FILED
Superior Court Of California,
Sacramento
06/06/2014
awoodward
By _____, Deputy
Case Number:
34-2014-80001864

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SACRAMENTO – GORDON D. SCHABER COURTHOUSE**

13 FIRST FREE WILL BAPTIST CHURCH OF
14 BAKERSFIELD, a California Nonprofit Religious
15 Corporation

16 Petitioner,

17 vs.

18 CALIFORNIA HIGH-SPEED RAIL
19 AUTHORITY, a public entity; and
20 DOES 1 through 20,

21 Respondents and Defendants.

22 and ROES 1 to 10;

23 Real Parties in Interest.

Case No.

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

VIOLATIONS OF CEQA:

- 1. CERTIFICATION OF A LEGALLY INADEQUATE ENVIRONMENTAL IMPACT REPORT
- 2. FAILURE TO RECIRCULATE REVISED DRAFT EIR
- 3. INADEQUATE CEQA REQUIRED FINDINGS; UNSUPPORTED STATEMENT OF OVERRIDING CONSIDERATIONS

DECLARATORY RELIEF

INJUNCTIVE RELIEF

BY FAX

1 Petitioner, FIRST FREE WILL BAPTIST CHURCH OF BAKERSFIELD (“Petitioner”
2 or “Church”), alleges, as follows:

3 PARTIES

4 1. Petitioner is, and at all times herein mentioned was, a church in Bakersfield,
5 California, organized and existing under the laws of the State of California. Petitioner also
6 maintains a school accredited by the Western Association of Schools and Colleges (“WASC”),
7 Bethel Christian School, which was established in 1980 serving approximately 70 students.
8 Petitioner also operates an outreach program. Petitioner owns approximately 22 parcels in east
9 Bakersfield, which is home to multiple buildings that include sanctuary and educational
10 structures. The school and church serve the greater Bakersfield area and the many low-income
11 families in the area. The health and viability of all of Petitioner’s programs and ministries are
12 threatened by the possibility that the route of the High Speed Rail project will be sited near the
13 Church's property. The environmental impacts complained of herein threaten Petitioner’s
14 interests and the interests of those whom Petitioner serves and impair Petitioner’s ability to
15 carry out its ministerial and related functions. These interests and functions have been and will
16 continue to be adversely affected by Respondents’ failure to comply with the applicable legal
17 requirements prior to making the Section Approvals described below.

18 2. Petitioner itself and/or through its representatives and members, participated to
19 the extent possible within the limited time allowed by Respondents in Respondents’ process
20 leading up to the Section Approvals and opposed the Section Approvals.

21 3. CALIFORNIA HIGH-SPEED RAIL AUTHORITY (“CHSRA”) is, and at all
22 times relevant to this proceeding was, an independent state authority established by the
23 legislature in 1996. CHSRA is responsible for planning, constructing, and operating a high-
24 speed train system to serve the Los Angeles to San Francisco mainline route as well as other
25 major California cities. CHSRA is governed by a nine-member policy board (“Board”) and is
26 the lead agency under CEQA for the Section and the Project as a whole as described below.
27 CHSRA, its staff, and contractors and consultants working under its control and direction, had a
28 duty to prepare and prepared the Final Environmental Impact Report (“FEIR”) for the Section.
The Board certified the FEIR and approved the Section.

1 4. DOES 1 through 20 ("DOES"), inclusive, are sued under fictitious names.
2 Petitioner is ignorant of the true names and capacities, whether individual, corporate,
3 governmental, or otherwise, of DOES and therefore sues DOES by these fictitious names.
4 Petitioner will amend this Petition to allege their true names and capacities when ascertained.
5 Petitioner is informed and believes, and based thereon alleges, that each of these fictitiously
6 named DOES is responsible in some manner for the acts or omissions alleged herein. CHSRA
7 and DOES are collectively referred to as "Respondents" herein.

8 5. Real parties interest named as ROES 1 to X, inclusive, are given fictitious names
9 because their named and capacities are presently unknown to Petitioner. Petitioner will amend
10 this Petition to allege their true names and capacities when ascertained.

11 **PROJECT**

12 6. The High-Speed Rail Project ("Project") is a proposed 800-mile public transit
13 project proposed to serve the Los Angeles to San Francisco mainline route as well as other
14 major California cities. Petitioner herein alleges that Respondents violated the California
15 Environmental Quality Act (Public Resources Code §§ 21000 et seq., and CEQA Guidelines,
16 14 California Code of Regulations §§ 15000 et seq.) ("CEQA"), and otherwise abused their
17 discretion and violated the law in taking actions related to the approval of the approximately

18 7. On or about August 15, 2011, Respondents issued their Draft Environmental
19 Impact Report ("DEIR") for the Section and provided a 60-day comment period. Petitioner
20 filed its comments in response to the DEIR on October 13, 2011. In order to add route
21 alternatives, including the Bakersfield Hybrid Alternative, in response to feedback on the
22 proposed alignments in the DEIR, Respondents issued a Revised Draft Environmental Impact
23 Report ("RDEIR") on or about July 20, 2012 and provided a 90-day comment period.
24 Petitioner filed its comments in response to the RDEIR on October 19, 2012. On or about April
25 18, 2014, Respondents issued their FEIR for the Section. Petitioner filed its comments in
26 response to the FEIR on May 1, 2014.

27 8. Respondents conducted a public hearing on the certification of the FEIR on May
28 6, 2014. After the public hearing, Respondents certified the FEIR for the Section and approved

1 construction of a portion of the Section up to Petitioner's northern boundary on May 7, 2014
2 ("Section Approvals"). On or about May 8, 2014, the CHSRA filed a Notice of Determination
3 with the Office of Planning and Research State Clearinghouse.

4 **FIRST CAUSE OF ACTION**

5 **(VIOLATION OF CEQA: CERTIFICATION OF A**
6 **LEGALLY INADEQUATE ENVIRONMENTAL IMPACT REPORT)**

7 9. Petitioner re-alleges and incorporates by reference the preceding paragraphs in
8 their entirety, as though fully set forth herein.

9 10. The Section required discretionary approval by Respondents and was therefore a
10 project subject to CEQA. The Section did not qualify for an exemption under CEQA, and the
11 lead agency, CHSRA, determined that the Section may have significant environmental impacts.
12 Therefore, CHSRA ordered the preparation of an environmental impact report for this Section of
13 the Project pursuant to CEQA.

14 11. CEQA requires a lead agency for a project to prepare an EIR that complies with
15 the requirements of the statute. The lead agency must also provide for public review and
16 comment on the project and associated environmental documentation. An environmental impact
17 report must provide sufficient environmental analysis such that decision makers can intelligently
18 consider environmental consequences when acting on proposed projects and the public can
19 meaningfully participate in the environmental review process.

20 12. Respondents' actions in certifying the FEIR and adopting findings constitute a
21 prejudicial abuse of discretion in that Respondents failed to proceed in the manner required by
22 law and their decision is not supported by substantial evidence as follows:

23 a. The Project includes significant construction and operational impacts on
24 local facilities, freeway projects, businesses, residents, private residents, businesses, schools,
25 churches, and medical facilities, that will permanently affect the physical environment and
26 quality of life in the region. Petitioner's church and school are currently in the Project's
27 alignments between both California Ave. (South Alignment) and Edison Highway (Hybrid
28 Alignment. The Project is to be sited in close proximity to Petitioner's sanctuary and educational
buildings and will tower at least 50 feet above Petitioner's church-school location, causing

1 significant aesthetic and visual impacts. The FEIR does not provide sufficient analysis under
2 CEQA to provide the level of detail necessary to mitigate these impacts.

3 b. Respondents have also failed to provide relevant information, including all
4 supporting technical analysis and reports such as noise and vibration studies, to the public in a
5 timely manner pursuant to Public Resources Code section 21003.1, which requires that
6 information relevant to the significant effects of a project be made available as soon as possible
7 to the general public and other public agencies.

8 c. The FEIR fails to fulfill CEQA's fundamental objective of informing the
9 public and the decision makers of the significant environmental effects of the Project and either
10 omits or defers the information and analysis necessary to mitigate the Project's devastating
11 significant impacts.

12 d. The FEIR fails to adequately describe the Section, fails to analyze the
13 Section's significant impacts to air quality, noise, energy, and other resources and impact
14 categories, and fails to formulate mitigation measures for Section impacts and develop Section
15 alternatives that could meet Project objectives while avoiding or reducing its impacts.
16 Specifically, the FEIR fails to adequately analyze and mitigate the noise impacts on Petitioner's
17 church and school, which both qualify as "indoor-noise sensitive sites." Respondent failed to
18 adequately evaluate and compare the noise impacts on Petitioner with similar noise-sensitive
19 sites, such as Mercy Hospital, Kern County Library and Bakersfield High School, and mitigate
20 them. Petitioner's school is accredited by WASC and should have been considered a noise-
21 sensitive site as well. Additionally, the FEIR fails to analyze impacts caused by sound walls. To
22 address noise impacts, the FEIR includes a mitigation measure that allows the construction of
23 sound barriers/walls as a possible measure. The FEIR includes maps that identify "potential
24 mitigation noise locations" but does not specify where such sound walls would likely be built, or
25 identify criteria to determine the location and characteristics of sound walls. While the FEIR
26 acknowledges that sound walls may have visual impacts, it fails to analyze such impacts at a site-
27 specific level or suggest any measures that could reduce those impacts. Moreover, the FEIR
28 failed to adequately disclose, analyze and mitigate the vibration impacts of the HSR on

1 Petitioner's church and school. Petitioner demonstrated to Respondents that sound barriers will
2 only provide minimal assistance in this area.

3 e. Despite Respondents' claims to the contrary, the FEIR fails to address or
4 respond in a meaningful way to many of the substantive comments raised by Petitioner in its
5 comments to the RDEIR.

6 f. The initial period of time allowed for public review and comment was so
7 unreasonably short that it precluded effective participation by Petitioner, the public and other
8 public agencies. The RDEIR, including the appendices, reference material and previous
9 environmental documents from which it purportedly tiered, comprised many thousands of pages
10 of material. In the revisions alone, over 900 pages of text and nearly 1,200 pages of maps and
11 drawings were added to an already voluminous DEIR. Despite the large volume of material and
12 the enormous public interest in the Project and its potential impacts on the environment,
13 Respondents allowed only 90 days for public review and comment, which was clearly
14 unreasonable and effectively precluded any meaningful opportunity for informed public and
15 agency participation. Although the time allowed exhibited facial compliance with CEQA's
16 minimum requirements, it clearly violated Respondents' duty to provide an adequate opportunity
17 for public review and comment and to ensure informed public participation in the environmental
18 review process. (CEQA Guidelines §§ 15086, 15087, 15201.)

19 g. The FEIR also failed to acknowledge that Respondents previously found
20 the Project as a whole would cause significant and unavoidable impacts, requiring a Statement of
21 Overriding Considerations. CEQA requires Respondents to squarely address the Project's
22 contribution to these significant and unavoidable impacts. (*Communities for a Better*
23 *Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 124-125.) By
24 concluding that many impacts will be mitigated to less-than-significant levels, without
25 acknowledging and addressing the significant and unavoidable impacts associated with the
26 Project, the FEIR obscures impacts rather than reveals them.

27 h. A number of critical studies in the FEIR are incomplete and the analysis of
28 several significant impacts has been impermissibly deferred. Many mitigation measures are in
only the early stages of formulation. In many places in the FEIR, mitigation is vague and

1 undefined (e.g., measures call for working with the community at the time of construction or
2 mitigating at an area or regional level rather than site specific mitigation), violating CEQA's
3 requirements for a project-level EIR. This approach did not provide Petitioner, other responsible
4 and trustee agencies, property owners, affected businesses, and tens of thousands of residents
5 with any sense of how mitigation will address their specific concerns nor is it clear the mitigation
6 will be effective. For example, Petitioner suggested two possible mitigation measures to
7 Respondents to reduce the impact on Petitioner's church and school to a less than significant
8 level: (1) relocation of Petitioner's facilities and replacement of classroom space in a manner that
9 ensures similar functionality and accessibility, and (2) reconfiguration of existing church and
10 school facilities and rebuilding of noise-sensitive structures to mitigate issues relating to noise
11 and vibration. With regard to the latter option, Petitioner alerted Respondents that mitigation
12 measures would require substantial landscape design, sound walls, major facility demolition,
13 reconfiguration, and rebuilding to the south of Petitioner's property. Petitioner also noted that
14 mitigation would require the installation of natural noise barriers (e.g. trees and shrubs), which
15 would need to be established prior to construction of the Project in order to be effective and that
16 any reconfiguration of Petitioner's facilities would need to be aligned with the construction of the
17 Project. Despite these suggestions, the mitigation measures ultimately adopted in the FEIR did
18 not address Petitioner's specific concerns and it is not clear how the adopted mitigation measures
19 will be effective

19 i. The environmental baseline in the FEIR is inadequate for a complete,
20 detailed analysis of section impacts. Respondents failed to conduct adequate surveys to identify
21 the environmental baseline for Section alternatives. Without this baseline information,
22 Respondents could not conduct meaningful analysis of Section impacts, as required. The FEIR
23 also fails to provide an accurate description of the affected environment, which is an essential
24 prerequisite for an adequate analysis of Section impacts. CEQA, however, prohibits a lead
25 agency from relying on a future study for this critical baseline information. (See, e.g., *San*
26 *Joaquin Raptor, supra*, 149 Cal.App.4th at 669 [invalidating EIR for lack of baseline information
27 on the ground that mitigation measure calling for protocol surveys did not make up for this
28 deficiency].)

1 j. The baseline information used for traffic impact analysis in the FEIR is
2 deficient in an additional respect – it is inconsistent as between the types of traffic impacts. With
3 respect to the negative effects that would be caused by road closures, the analysis relies on lower
4 existing levels of traffic to conclude that closures would not have significant impacts. But when
5 it comes to analyzing the Section’s future traffic impacts, the analysis relies on higher projected
6 future baseline traffic levels to conclude that additional traffic caused by the Section would not
7 be significant. Either the analysis of road closure impacts should take into account higher
8 projected regional traffic or the analysis of Section impacts should use existing traffic baseline
9 conditions. Instead, the analysis improperly uses a shifting baseline, attempting to have it both
10 ways.

11 k. Further, the FEIR’s analysis of the Section’s environmental impacts is
12 inadequate. CEQA requires the analysis of potential impacts to be "reasonably thorough" and
13 specific at the project level. (*City of Carmel-by-the-Sea v. US Dept. of Transportation* (9th Cir.
14 1993) 123 F.3d 1142, 1150; see also CEQA Guidelines, § 15146 [“The degree of specificity
15 required in an EIR will correspond to the degree of specificity involved in the underlying activity
16 which is described in an EIR”].) The FEIR is inadequate because it frequently discusses
17 environmental effects in only general terms and fails to quantify the extent of the Project's
18 potential impacts. The FEIR purports to be a project-level EIR that provides “site specific
19 detailed analysis” but instead deals largely in generalities and frequently fails to quantify the
20 extent of the anticipated impacts. Without such specific information, the public and the decision
21 makers can neither assess the severity of potential impacts nor determine the adequacy and
22 effectiveness of proposed mitigation measures.

23 l. The FEIR is also inadequate because many of the assumptions, analyses,
24 and conclusions regarding potential impacts are not supported by facts, data, or other substantial
25 evidence. CEQA requires a lead agency to explicitly reference the scientific and other sources
26 which support the discussions, analyses, and conclusions in an EIR. The discussion of many
27 potential environmental impacts within the FEIR consists of conclusory statements which are not
28 supported by any scientific data or other facts.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

m. Additionally, the proposed mitigation measures are incomplete and ineffective. CEQA requires an EIR to identify specific mitigation measures that will avoid or reduce the significant impacts of a proposed project. (CEQA Guidelines § 15126.4.) Proposed mitigation measures must be sufficiently specific to ensure they are enforceable and effective. (*Vineyard Area Citizens, supra*, 40 Cal.4th at 444.) Vague, incomplete, or speculative mitigation measures are insufficient under CEQA. (*Federation of Hillside & Canyons Assn. v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1260.) The discussion of mitigation measures in each section of the FEIR fails to identify mitigation measures with sufficient specificity to gauge their effectiveness and enforceability. Few, if any, of the recommended measures identify who is to perform the mitigation, what action is required, when the mitigation must be performed, or how it is to be accomplished. For example, Respondents did not adequately analyze whether the proposed relocation of the Project a few feet further from Petitioner’s church and school would truly mitigate the impacts raised by Petitioner, such as noise, vibration, and visual impacts. Further, under CEQA, an essential component of an adequate discussion of mitigation measures is an assessment of whether the proposed measures would be effective. (*South Fork Band Council of Western Shoshone of Nevada v. U.S. Dept. Of Interior* (9th Cir. 2009) 588 F.3d 718, 727; *Vineyard Area Citizens, supra*, 40 Cal.4th at 444.) The FEIR is inadequate because it improperly defers the formulation of necessary mitigation measures. (CEQA Guidelines § 15126.4(a)(1)(B).) In many critical areas, necessary mitigation measures or critical components of the measures are left for future determination. Where the mitigation measures are not identified and agreed on, the conclusion that impacts will be mitigated is unsupported. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 95-96.)

n. In addition, the FEIR repeatedly conditions the implementation of necessary mitigation measures with the words "where possible" or "to the extent feasible," which violates CEQA by improperly delegating the determination of whether or what mitigation will be performed to unnamed persons and making it uncertain whether the significant impact will or will not be mitigated to a level below significance. In other instances there are statements made "implement measures to..." but there are no specific measures mentioned, which implies those details will be resolved at a later date. Indeed, the typical discussion concerning impact

1 mitigation identifies the possibility of significant impacts, mentions an array of undefined and
2 generalized mitigation measures that “may” or “could” be implemented and then states the
3 conclusion that the identified potential impacts would not be significant with mitigation. The
4 FEIR, however, fails to specifically explain how and to what extent the poorly defined mitigation
5 measures will effectively reduce impacts. As a result, it is impossible for public and the decision
6 makers to know whether the measures will be effective and enforceable.

7 o. Further, impacts caused by mitigation are inadequately analyzed, or not
8 analyzed at all in the FEIR. Examples include:

9 (1) The FEIR does not consider a reasonable range of alternatives.
10 Petitioner alerted Respondents to this error, noting that the alternatives considered were
11 only feet apart from each other and therefore were not true alternatives because they all
12 cause similar, extensive and serve impacts to Petitioner and other interested persons. An
13 EIR is required to analyze a reasonable range of alternatives that will fulfill the
14 fundamental objectives of a proposed project and will avoid or substantially reduce any
15 of its significant environmental effects. (40 CFR § 1502.14; CEQA Guidelines §
16 15126.6.) Under CEQA, it is the lead agency's responsibility, not the public's or
17 responsible agencies' duty to identify feasible alternatives. (*Laurel Heights Improvement*
18 *Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 405.) The range of
19 alternatives discussed in an EIR must be sufficiently broad that it "will foster informed
20 decision making and public participation." (CEQA Guidelines § 15126.6(a); *Center for*
21 *Biological Diversity v. U.S. Dept. Of Interior* (9th Cir. 2010) 623 F.3d 633, 642-643.)
22 The existence of reasonable but unexamined alternatives renders an EIR inadequate.
23 (*Ibid.*) The FEIR fails to comply with CEQA because it did not consider a reasonable
24 range of alternatives and instead, except for the mandatory "no project" alternative,
25 examined only minor variations in portions of the proposed alignment. The FEIR's
26 failure to consider other alternatives that could avoid or substantially reduce any of the
27 Project's significant impacts, such as an alignment that follows established transportation
28 corridors or an alternative technology that would avoid or minimize one or more
significant impacts (e.g., maglev), renders the analysis inadequate and incomplete.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(2) Also, Respondents failed to provide meaningful responses in the FEIR to Petitioner's and others' comments. CEQA requires a lead agency to provide meaningful responses to public and agency comments. (Pub. Resources Code § 21091(d)(2); CEQA Guidelines § 15088.) "Comment noted" is not a meaningful response. If a comment does not warrant further response, the lead agency is required to explain why, "citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response." (40 CFR § 1503.4(a)(5).) The lead agency's responses to comments must describe the disposition of all significant environmental issues raised in the comments and must provide detailed, reasoned, good-faith analysis of the issues raised. (CEQA Guidelines § 15088(c); see also *Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2003) 106 Cal.App.4th 715, 722-723 (SCOPE).) Conclusory statements unsupported by factual information are not an adequate response. (Ibid.)

p. Petitioner further incorporates herein its comment letters to the DEIR, RDEIR, and FEIR and the objections contained therein, all of which are part of the record related to the FEIR, as though fully set forth herein.

13. As a result of the foregoing defects, Respondents prejudicially abused their discretion by certifying a FEIR that does not comply with CEQA and by approving a portion of the Section in reliance thereon. Accordingly, the Section Approvals must be set aside and declared void. Respondents must be prohibited from taking any further actions with respect to the Section until they have complied with the applicable legal requirements.

SECOND CAUSE OF ACTION

(VIOLATION OF CEQA: FAILURE TO RECIRCULATE)

14. Petitioner re-alleges and incorporates by reference the preceding paragraphs in their entirety, as though fully set forth herein.

15. Under CEQA, a lead agency has a duty to recirculate a draft EIR for public review when any significant new information is added to the draft EIR after its previous circulation for public review and comments. In addition, recirculation is required if new circumstances have

1 arisen after the close of the previous public comment period that would require substantial
2 revisions to the draft EIR.

3 16. Respondents did not recirculate the environmental reports prepared for the Project
4 for public comment after inserting the significant new information. In failing to recirculate these
5 documents for public comment after inserting significant new information, Respondents violated
6 CEQA, specifically Public Resources Code section 21092.1 and CEQA Guidelines section
7 15088.5.

8 17. By failing to recirculate the environmental reports, Respondents deprived
9 members of the public and other public agencies, including responsible and trustee agencies, the
10 opportunity to review and comment on the new impact analysis presented by Respondents, the
11 significance of the Section's various impacts under the new analysis, possible mitigation
12 measures for the newly disclosed impacts, the cumulative impacts of the Section under the new
13 impact analysis, and alternatives that could lessen the newly disclosed impacts.

14 18. By failing to recirculate the environmental documents for public review and
15 comment, Respondents abused their discretion. Accordingly, the Section Approvals must be set
16 aside and declared void. Respondents must be prohibited from taking any further actions with
17 respect to the Section until they have complied with the applicable legal requirements.

18 **THIRD CAUSE OF ACTION**

19 **(VIOLATIONS OF CEQA: INADEQUATE CEQA REQUIRED FINDINGS;
20 UNSUPPORTED STATEMENT OF OVERRIDING CONSIDERATIONS)**

21 19. Petitioner re-alleges and incorporates by reference the preceding paragraphs in
22 their entirety, as though fully set forth herein.

23 20. Prior to approving a project for which an EIR has been certified, CEQA requires
24 the lead agency to adopt one of three possible findings concerning each significant impact
25 identified in the EIR ("CEQA Findings"). The CEQA Findings must be supported by substantial
26 evidence in the administrative record of proceedings.

27 21. Respondents prejudicially abused their discretion by failing to proceed in the
28 manner required by law by adopting CEQA Findings that are not supported by substantial
evidence. For example, Respondents failed to provide substantial evidence of the efficacy of

1 mitigation proposed for numerous Section impacts, thereby precluding accurate conclusions
2 concerning the minimization of such impacts.

3 22. Where a significant impact cannot be mitigated to a less-than-significant level,
4 CEQA allows a lead agency to adopt what is known as a "statement of overriding
5 considerations." (Public Resources Code § 21081, subd. (b).)

6 23. Respondents prejudicially abused their discretion by failing to proceed in the
7 manner required by law by adopting a Statement of Overriding Considerations that is not
8 supported by substantial evidence. Respondents have downplayed the Section's impacts and
9 have overstated its anticipated benefits.

10 24. Accordingly, the Section Approvals must be set aside and declared void.
11 Respondents must be prohibited from taking any further actions with respect to the Section until
12 they have complied with the applicable legal requirements.

13 **FOURTH CAUSE OF ACTION**

14 **(DECLARATORY RELIEF)**

15 25. Petitioner re-alleges and incorporates by reference the preceding paragraphs in
16 their entirety, as though fully set forth herein.

17 26. Petitioner seeks a judicial declaration that Respondents' certification of the FEIR
18 and approval of the Section failed to comply with the requirements of CEQA.

19 27. Respondents have a mandatory duty to comply with CEQA and other legal
20 requirements applicable to the Section and the Project as a whole.

21 28. Petitioner has the right to enforce these mandatory duties.

22 29. Petitioner has no other plain, speedy, and adequate remedy at law, and will suffer
23 irreparable injury unless it receives the relief requested in this Petition.

24 30. An actual controversy exists between Petitioner and Respondents as to whether
25 the actions and conduct of Respondents alleged in this Petition have violated CEQA and other
26 laws as identified herein. This controversy implicates the legality of the manner in which
27 Respondents have proceeded in giving the Section Approvals, the validity of the Respondents'
28 actions with respect thereto and, consequently, the legal ability of Respondents to take further
actions to develop the Section based upon the Section Approvals. The Petitioner contends that

1 each and all such actions and conduct have violated and will violate these laws. Petitioner is
2 informed and believes, and based thereon alleges, that Respondents dispute these contentions. A
3 judicial resolution of that controversy is now required pursuant to California Code of Civil
4 Procedure section 1060.

5 31. Petitioner requests a judicial declaration that Respondents' actions and conduct
6 alleged in this Petition have violated and will violate CEQA and other laws identified herein.
7 Such declaration is necessary and appropriate at this time under the circumstances in order that
8 Petitioner and Respondents may ascertain their rights and duties.

9 32. Petitioner has no plain, speedy, or adequate remedy in the ordinary course of law.
10 No money damages or other legal remedy could adequately compensate Petitioner for the harms
11 described in the preceding paragraphs.

12 **FIFTH CAUSE OF ACTION**

13 **(INJUNCTIVE RELIEF)**

14 33. Petitioner re-alleges and incorporates by reference the preceding paragraphs in
15 their entirety, as though fully set forth herein.

16 34. Respondents are threatening to proceed with development and construction of the
17 Section in the near future. This action will bring irreparable harm to Petitioner and all others
18 who reside, work, or own property within Petitioner's jurisdiction and will cause significant
19 environmental impacts, as set forth above, that will not be avoided or fully mitigated to the extent
20 feasible. A temporary restraining order and preliminary and permanent injunction should issue
21 restraining Respondents from taking any further action related to the Section.

22 **NOTICE OF COMMENCEMENT OF CEQA PROCEEDING**

23 35. On June 4, 2014, prior to filing this Petition, Petitioner, through its counsel,
24 served CHSRA with notice of Petitioner's intention to immediately commence a proceeding
25 against Respondents for violation of CEQA in connection with the Section Approvals. A copy of
26 the letter providing such notice, together with proof of service, is attached to this Petition as
27 Exhibit A and is incorporated herein by this reference. This letter satisfied Petitioner's duties
28 under Public Resources Code section 21167.5.

Channel Law Group, LLP
207 East Broadway, Suite 201
Long Beach, CA 90802

1 5. That the Court issue a temporary restraining order, preliminary injunction, and
2 permanent injunction restraining Respondents from taking any further action related to the
3 Section pending trial;

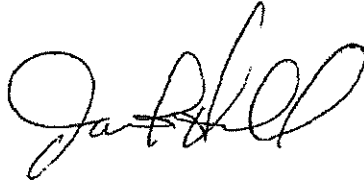
4 6. That, upon motion of Petitioner pursuant to Code of Civil Procedure section
5 1021.5, the Court award and order Respondents to pay Petitioner's reasonable attorneys' fees in
6 connection with this proceeding;

7 7. That the Court order Respondents to pay Petitioner's costs of suit; and

8 8. That the Court order such other and further relief as may be just and reasonable.

9
10 Dated: June 6, 2014

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By: 

Jamie T. Hall
CHANNEL LAW GROUP, LLP
*Attorney for Petitioner, First Free Will Baptist
Church of Bakersfield*

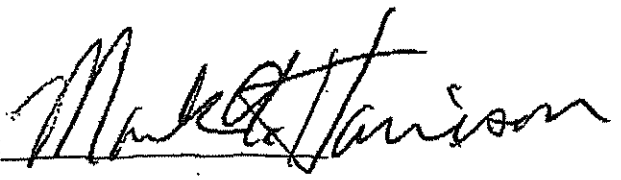
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

I am the pastor of and authorized representative for First Free Will Baptist Church of Bakersfield. I am authorized to execute this verification on behalf of petitioner. I have read the foregoing petition and am familiar with its contents. The facts recited in the petition are true and of my personal knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: June 6, 2014

By: 

Dr. Mark A. Harrison, Pastor
Authorized Representative
First Free Will Baptist Church.

Channel Law Group, LLP
207 East Broadway, Suite 201
Long Beach, CA 90802

Channel Law Group, LLP
207 East Broadway, Suite 201
Long Beach, CA 90802

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit A

Channel Law Group, LLP

207 E. Broadway
Suite 201
Long Beach, CA 90802-8824

Fax: (562) 394-1940

ROBERT JYSTAD
JULIAN K. QUATTLEBAUM, III
JAMIE T. HALL *
CHARLES J. McLURKIN
NATASHA ERNST**

Writer's Direct Line: (310) 982-1760
jamie.hall@channellawgroup.com

*ALSO Admitted in Texas
**ALSO Admitted in Oregon

June 4, 2014

Via Facsimile & U.S. Mail

Jeff Morales, Chief Executive Officer
California High Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814

(916-654-2630)

Thomas Fellenz, Chief Counsel
California High-Speed Rail Authority
1415 11th Street, Room 1315
Sacramento, CA 95814

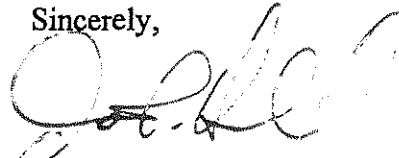
(916-322-0827)

Re: Notice of Intent to Commence CEQA Action and Proceeding

Gentlemen:

PLEASE TAKE NOTICE, under California Public Resources Code section 21167.5, that Petitioner, First Free Will Baptist Church of Bakersfield intends to immediately file a Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief ("Petition") under the provisions of the California Environmental Quality Act ("CEQA"), inter alia, against the California High Speed Rail Authority ("CHSRA"). The Petition will be filed in Sacramento County Superior Court and will allege, inter alia, that the Environmental Impact Report/Environmental Impact Statement prepared and certified in connection with the approval of the proposed Fresno to Bakersfield section of the High-Speed Rail Project at the meeting of the CHSRA Board on May 6 and 7, 2014, and referenced in the Notice of Determination filed May 8, 2014, does not comply with CEQA.

Sincerely,



Jamie T. Hall

Attorney for Petitioner

Channel Law Group, LLP
207 East Broadway, Suite 201
Long Beach, CA 90802

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit B

Channel Law Group, LLP

207 E. Broadway
Suite 201
Long Beach, CA 90802-8824

Fax: (562) 394-1940

ROBERT JYSTAD
JULIAN K. QUATTLEBAUM, III
JAMIE T. HALL *
CHARLES J. McLURKIN
NATASHA ERNST**

Writer's Direct Line: (310) 982-1760
jamie.hall@channellawgroup.com

*ALSO Admitted in Texas
**ALSO Admitted in Oregon

June 6, 2014

By U.S. Mail

Office of the Attorney General
1515 Clay Street | P.O. Box 70550
Oakland, CA 94612-0550

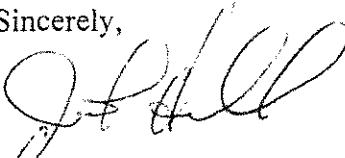
Re: Challenge to Certification of Environmental Impact Report for Fresno-to-Bakersfield
Section of the California High-Speed Rail System, SCH No. 2009091126
First Free Will Baptist Church of Bakersfield v. California High-Speed Rail Authority

Honorable Attorney General Harris:

Enclosed please find a copy of the Petition for Writ of Mandate filed by First Free Will Baptist Church of Bakersfield to challenge the California High-Speed Rail Authority's certification of an environmental impact report for the Fresno-to-Bakersfield Section of the California High-Speed Rail system ("Section"). Petitioner has alleged that Respondent's approval of the Section does not comply with CEQA.

Please call if you have any questions.

Sincerely,



Jamie T. Hall

Enclosure: Petition for Writ of Mandate

Channel Law Group, LLP
207 East Broadway, Suite 201
Long Beach, CA 90802

PROOF OF SERVICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES) ss.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 207 E. Broadway, Suite 201, Long Beach, CA 90802.

On June 6, 2014 I served the foregoing document described as **NOTICE TO ATTORNEY GENERAL** on the interested parties in this action by placing a true copy thereof, enclosed in a sealed envelopes addressed as follows:

Office of the Attorney General
1515 Clay Street / P.O. Box 70550
Oakland, CA 94612-0550

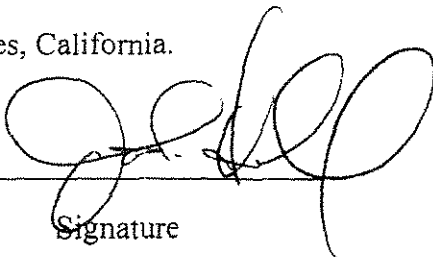
BY MAIL: I placed true copies of the foregoing document in sealed envelopes addressed as stated on the above/attached service list. I placed such envelope, with postage thereon fully prepaid, for collection and mailing at Los Angeles, California. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice the mail would be deposited with the U. S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on June 6, 2014, in Los Angeles, California.

Jamie T. Hall

Name


Signature

Channel Law Group, LLP
207 East Broadway, Suite 201
Long Beach, CA 90802

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit C

Channel Law Group, LLP
207 East Broadway, Suite 201
Long Beach, CA 90802

1 JAMIE T. HALL (Bar No. 240183)
2 JULIAN K. QUATTLEBAM (Bar No. 214378)
3 CHANNEL LAW GROUP, LLP
4 207 E. Broadway, Suite 201
5 Long Beach, CA 90802-8824
6 Telephone: (310) 982-1760
7 Facsimile: (562) 394-1940

8 Attorneys for Petitioner,
9 FIRST FREE WILL BAPTIST CHURCH OF BAKERFIELD,
10 a California Nonprofit Religious Corporation

11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF SACRAMENTO – GORDON D. SCHABER COURTHOUSE**

14 FIRST FREE WILL BAPTIST CHURCH OF
15 BAKERSFIELD, a California Nonprofit Religious
16 Corporation

17 Petitioner,

18 vs.

19 CALIFORNIA HIGH-SPEED RAIL
20 AUTHORITY, a public entity; and
21 DOES 1 through 20,

22 Respondents and Defendants.

23
24
25
26
27
28
and ROES 1 to 10;

Real Parties in Interest.

Case No.

**NOTICE OF ELECTION TO PREPARE
ADMINISTRATIVE RECORD**

Channel Law Group, LLP
207 East Broadway, Suite 201
Long Beach, CA 90802

1 PLEASE TAKE NOTICE: Pursuant to Public Resources Code section 21167.6, Petitioner Free
2 Will Baptist Church of Bakersfield hereby elects to prepare the administrative record in this
3 appeal.

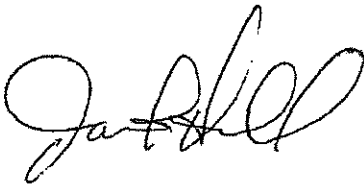
4

5 Dated: June 6, 2014

6

7

8

By: 

9

10

Jamie T. Hall
CHANNEL LAW GROUP, LLP
*Attorney for Petitioner, First Free Will Baptist
Church of Bakersfield*

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28