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## Palo Alto Online News

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Menlo Park, Atherton want rail suit reopened  
 Coalition of rail critics files new legal challenge, seeks to start new debate over rail alignment

by [Gennady Sheyner](#)  
 Palo Alto Online Staff

Menlo Park, Atherton and a coalition of environmental groups filed a new legal challenge against the California High-Speed Rail Authority Thursday afternoon, seeking to force the agency to reconsider its Bay Area alignment for the controversial rail line.

The coalition includes the groups Transportation Solutions Defense and Education Fund (TRANSDEF), California Rail Foundation and the Planning and Conservation League.

It filed a petition in the Sacramento County Superior Court arguing that the ridership model the authority relied on to choose the Pacheco Pass as its preferred alignment has serious flaws and that the agency's choice needs to be revisited.

The groups ask the court to reopen the lawsuit they filed against the authority in 2008. As a result of that lawsuit, the court ordered the rail authority to decertify its environmental analysis for the rail system and revise sections, including those relating to noise and vibration impacts.

But Judge Michael Kenney also upheld the rail authority's choice of Pacheco Pass as the preferred alignment.

With the new petition, the plaintiffs ask Kenney to revisit that decision. They point to information recently uncovered by Palo Alto-based watchdog group, Californians Advocating Responsible Rail Design (CARRD) indicating that the rail authority's comprehensive Environmental Impact Report relied on a ridership model that had not been publicly disclosed or peer reviewed.

CARRD also obtained a memo from Cambridge Systematics, the rail authority's transportation consultant, acknowledging that the Metropolitan Transportation Commission, which funded the ridership study, elected not to include all the details about the revised ridership model in its final report.

Stuart Flashman, the attorney representing the coalition, argued in the court filing that the new evidence suggests that the ridership model is flawed and that the rail authority needs to take a new look at its Bay Area options for the rail line, estimated to cost about \$43 billion.

"The flaws call into question the validity of the modeling results included in the (Program Environmental Impact Report/Environmental Impact Statements), and the soundness of the alignment decision made by Respondent in reliance on those results," Flashman wrote.

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Flashman also argued that because MTC chose not to publicize the details of its revised ridership model, no one had a chance to review it and point out its "inadequacies." As a result, even the rail authority's board of directors was unaware of the problems with the model.

"As a consequence of the concealment of the final model and its flaws, petitioners have been deprived of the opportunity to present this issue to Respondent or to the Court, making the trial of this case, and the resulting judgment, unfair," Flashman wrote.

David Schonbrunn, president of TRANSDEF, told the Weekly on Thursday that the suit seeks to reopen the agencies' prior lawsuit and revisit the issue of Pacheco vs. Altamont. The petition argues that the flawed ridership model skewed date toward Pacheco, an alternative that relies on the Caltrain Corridor on the Peninsula. The plaintiffs prefer the Altamont Pass route in the East Bay.

Schonbrunn said the group expressed its concerns about the Pacheco route as part of its comments on the revised EIR. But he said the plaintiffs expect the rail authority to only address comments pertaining to the sections that were revised.

"We're asking the court for remedial action because this information has been hidden," Schonbrunn said. "We're asking that (the rail authority) be ordered to respond to our comments about the failings of the model."

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