

05/12/2025

Clad Fink, Executive Officer / Clerk of the Court

By: *A. Tumonong* Deputy
A. Tumonong

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Dept. No. 23

Date: 5/12/2025

Hon. MICHAEL MARKMAN, Judge

ALAMEDA COUNTY TAXPAYERS, INC., et al.,

Petitioners,

v.

TRI-VALLEY SAN JOAQUIN VALLEY REGIONAL
RAIL AUTHORITY, et al.,

Respondents.

Case No. RG21110126

ORDER DENYING WRIT OF MANDATE

ORDER

The petition for writ of mandate is DENIED. Respondents are to prepare and file a proposed judgment, after conferring with counsel for Petitioners, within ten days of this Order.

BACKGROUND

Petitioners Alameda County Taxpayers' Association, Inc., Marcus Crawley, Montclair Village Hardware, and Transportation Solutions Defense and Education Fund filed this action to challenge the Valley Link Project, a passenger rail service project intended to link Dublin/Pleasanton and the Northern San Joaquin Valley. In the third and fourth causes of action, Petitioners seek a writ of mandate against Respondents Tri-Valley San Joaquin Valley Regional Rail Authority, as well as the Authority's Board of Directors and the Authority's current and former Executive Directors in their official capacities. Petitioners allege that Respondents failed to perform their clear, present, and mandatory duties, that Respondents' approval of the Valley Link project was not supported by findings, and/or that any findings were not supported by substantial evidence. Petitioners seek a mandate requiring the Authority to rescind or vacate the May 12, 2021 project approval.

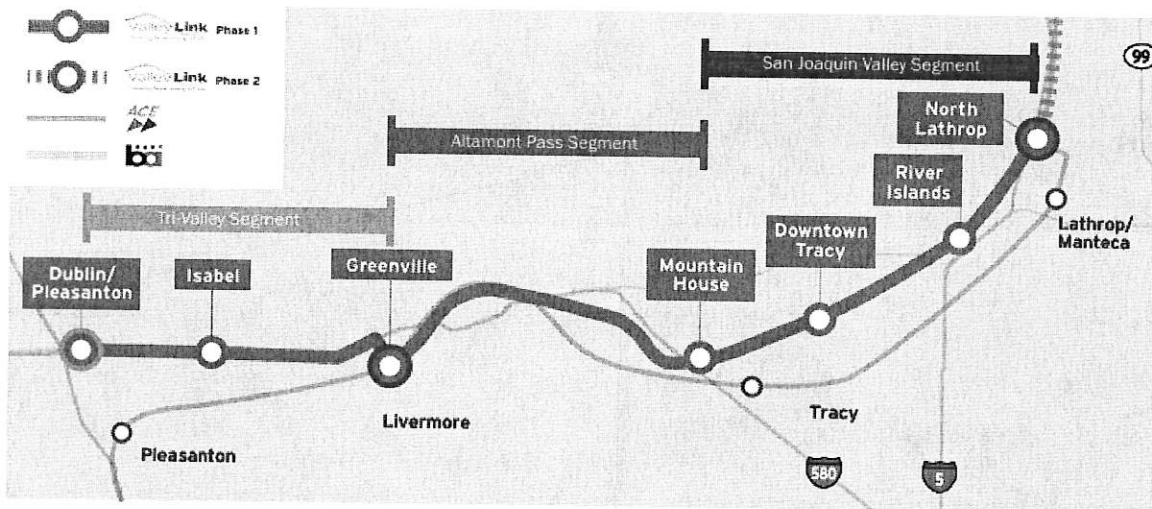
The Legislature established the Tri-Valley San Joaquin Valley Regional Rail Authority ("the Authority") in 2017 for purposes of planning, developing, and delivering "cost-effective and responsive transit connectivity, between BART's rapid transit system and the Altamont Corridor Express commuter rail service in the Tri-Valley region of California, that reflects regional consensus and meets the goals and objectives of the San Joaquin Valley and Tri-Valley communities," consistent with a project feasibility report to be adopted by the Authority. (Pub. Util. Code, §§ 132652, 132661, eff. Jan. 1, 2018.)

"Connectivity" is defined by the statute that created the Authority as "one or more projects necessary to achieve transit connectivity between BART's rapid transit system and the San Joaquin Regional Rail Commission's Altamont Corridor Express commuter rail service, and to provide quality, seamless service to riders using the services operating between the Tri-Valley and the San Joaquin Valley." (Pub. Util. Code, § 132651.)

The statute specified that the Authority's governing board would be composed representatives from various public entities—both Alameda and San Joaquin Counties, nine cities in the region, and the potentially affected transit systems. (Pub. Util. Code, § 132655.) The Authority was entrusted with "all of the powers necessary for planning, acquiring, leasing, developing, jointly developing, owning, controlling, using, jointly using, disposing of, designing, procuring, and constructing facilities to achieve transit connectivity." (*Id.*, § 132656.)

The statute listed required elements for the project feasibility report and required the Authority to post the report on its website and "submit the report to the Metropolitan Transportation Commission, the governing board of the Bay Area Rapid Transit District, the governing board of the San Joaquin Regional Rail Commission, the policy committees of each house of the Legislature with jurisdiction over transportation policy matters, and the Transportation Agency." (Pub. Util. Code, § 132661, subs. (a), (c).) The project feasibility report had to include recommendations "for expediting the development of cost-effective and responsive transit connectivity," "identification of a preferred entity or entities to deliver transit connectivity," a "funding plan," a "description of any plan to finance the development of transit connectivity," a "proposed schedule for completion," and a "preliminary design for the project or projects to complete transit connectivity." (*Id.*, § 132661, subd. (a).) Petitioners did not mount a legal challenge to the adequacy of that report.

In its October 2019 final project feasibility report, the Authority proposed to first create rail service from an existing Dublin/Pleasanton BART Station to a proposed North Lathrop ACE Station, utilizing existing transportation rights-of-way where feasible, and then, in phase 2, extend rail service from the proposed North Lathrop ACE Station to an existing Stockton ACE Station. (AR7703.)



The Authority proceeded to commission an environmental review of the proposed Valley Link project, as required by the California Environmental Quality Act ("CEQA"), which includes a public

comment period. On May 12, 2021, the Authority's Board approved Resolution No. R08-2021, in which the Board approved the project described in the Final Environmental Impact Report and directed its staff to take the necessary steps to allow for construction and operation of the project. (AR10825–26.) No one made a CEQA challenge at the time.

The project approved by Resolution No. R08-2021 would establish new passenger rail service along a 42-mile corridor between the existing Dublin/Pleasanton BART Station and the proposed ACE North Lathrop Station in three segments. (AR11347.)

LEGAL STANDARDS

Petitioners seek a writ of mandate under Code of Civil Procedure section 1085 (3rd cause of action) or, in the alternative, under Code of Civil Procedure section 1094.5 (4th cause of action). "The nature of the administrative action or decision at issue determines which type of review applies." (*Martis Camp Community Ass'n v. County of Placer* (2020) 53 Cal.App.5th 569, 593.)

"In general, administrative mandate under Code of Civil Procedure section 1094.5 is used to review the validity of quasi-judicial decisions resulting from a proceeding in which (1) a hearing was required to be given, (2) evidence was required to be taken, and (3) discretion in the determination of facts was vested in the agency." (*Martis Camp, supra*, at p. 593.) "In administrative mandate cases, abuse of discretion is established if the agency has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by substantial evidence in light of the whole record." (*Ibid.*)

Mandamus under section 1085 may be "used to review administrative decisions that do not meet the requirements for review under section 1094.5." (*Manderson-Saleh v. Regents of Univ. of California* (2021) 60 Cal.App.5th 674, 692.) "In such cases, the appropriate standard is whether the agency's action was arbitrary, capricious, entirely lacking in evidentiary support, or failed to follow the procedure required by law." (*Martis Camp, supra*, at p. 594.) Under the arbitrary and capricious standard, the court defers to an agency's factual finding "unless no reasonable person could have reached the same conclusion on the evidence before it." (*Id.*, p. 595.)

All of that said, the question of whether the Authority lacked statutory authority to issue a resolution is reviewed as a pure question of law (later subject to de novo review on appeal). (See *Tracy Rural County Fire Protection Dist. v. Local Agency Formation Comm. of San Joaquin County* (2022) 84 Cal.App.5th 91, 107 (*Tracy Rural*), citing *Lindelli v. Town of San Anselmo* (2003) 111 Cal.App.4th 1099, 1104.)

In this case, the Authority was not required to hold a hearing, receive evidence, and then exercise its discretion to make factual determinations based on those facts; the Authority was tasked with the planning, development, and delivery of transit connectivity. (See, e.g., *Association of Irrigated Residents v. State Air Res. Bd.* (2012) 206 Cal.App.4th 1487, 1494 ["adoption of the scoping plan is properly characterized as quasi-legislative administrative action"].) Put another way, the Agency's determination amounts to "a quasi-legislative act that may be challenged by a petition for writ of ordinary mandamus." (*Tracy Rural, supra*, 84 Cal.App.5th at p. 106, citing *Protect Agricultural Land v. Stanislaus County Local Agency Formation Comm.* (2014) 223 Cal.App.4th 550, 558.)

The court concludes that it is to apply section 1085 to review the Authority's decision-making. In the alternative, even if section 1094.5 applied, the court's analysis of the Authority's factual determinations would not be materially different under the less deferential "substantial evidence" standard of review. (*Martis Camp Cmty. Ass'n v. Cnty. of Placer* (2020) 53 Cal.App.5th 569, 595–96.)

REQUESTS FOR JUDICIAL NOTICE

The parties request judicial notice of various public documents, including legislative histories and agency reports. The court grants the parties' requests pursuant to Evidence Code 452.

DISCUSSION

The Authority's Statutory Mandate

Explaining their view that "[t]his case is about empire building and overreach" by the Authority, Petitioners advance two theories about how the Authority exceeded the scope of its power. First, Petitioners contend that the Authority was only authorized to connect the 5-mile gap between the Dublin/Pleasanton BART station and the nearest existing ACE station—not to create and operate a seven-station transit system stretching 42 miles. (MPA, pp. 15–17.)

There is no mileage or station number limitation contained in the authorizing statute. Language elsewhere in the law creating the Authority confers broad planning powers on the Authority in order to make the ACE-to-BART connection a reality. The concept of a connection within a fairly short geographic range is viscerally appealing, but the statutes do not set mileage limits. The administrative record reflects that the Authority considered multiple options within a narrower geographic scope. Many were not feasible, created a multiplicity of undesirable environmental impacts, and in the Authority's view lacked the potential benefits of a connection with the broader scope of the implementation the Authority decided to pursue.

The parties agree that the Authority is a "construction authority," rather than a transit district. The 2021 amendment to the statute clarified that "the Authority is deemed a rail transit district for the purposes of exemption from applicable local building and zoning ordinances." (Resp.' Compendium of Evid., RJN, Ex. 3, p. 20 of 65; see also Pub. Util. Code, § 132652, subd. (b).) But, Petitioners cite no authority for the proposition that a construction authority is inherently limited in its activities by geography. The operation of the not-yet-completed Valley Link project is not at issue on this petition. The *Tracy Rural* case cited by Petitioners is not to the contrary. (84 Cal.App.5th at pp. 110–111.) There, the problem was that the respondent Local Agency Formation Commission passed a resolution that exceeded its authority by effectively imposing a requirement "on its own initiative, without any pending proposal before it, and the resolution operates in futuro." (*Id.*) The Authority's actions have not been contrary to its enabling statute, as amended.

Second, Petitioners contend that the Legislature did not give the Authority the power to approve a project to connect with ACE outside of the Tri-Valley region. Respondents acknowledge that the North Lathrop Station (currently under construction) is the only approved connection point with ACE. The "Tri-Valley" is comprised of "the Cities of Danville, Dublin, Livermore, Pleasanton, and San Ramon." (Pub. Util. Code, § 132651, subd. (e).) There is no dispute that North Lathrop is not in the Tri-Valley region (it is in the Central Valley).

Petitioners' theory seems to make sense, since the statute's original text established the Authority "for purposes of planning, developing, and delivering "cost-effective and responsive transit connectivity, between BART's rapid transit system and the Altamont Corridor Express commuter rail service *in the Tri-Valley region of California . . .*" (Pub. Util. Code, § 132652, eff. Jan. 1, 2018 [emphasis added].) The biggest problem with the theory, however, is that the Legislature amended the statute in 2021 to remove the "in the in the Tri-Valley region of California" limitation. (Pub. Util. Code, § 132652, eff. Jan. 1, 2022.) The California Bill Analysis of the amendment states that "SB 548 clarifies various provisions of the Rail Authority's enabling statute," specifically, by eliminating the implication that "there is a requirement for the Rail Authority to create a connection between BART and ACE within the Tri-Valley." (Resp.' Compendium of Evid., RJN, Ex. 3, p. 20 of 65.) Although the statute was not amended until after Resolution No. R08-2021 passed, the legislature's indication of an intent to clarify, rather than modify, signifies the legislature's intent that the amendment should have retroactive effect. (See *Salazar v. Diversified Paratransit, Inc.* (2004) 117 Cal.App.4th 318, 326 ["when the Legislature clearly intends a statute to operate retrospectively, we are obliged to carry out that intent unless due process considerations prevent us"].) Petitioners did not attempt to distinguish *Salazar* on reply.

A further problem is that "connectivity" is broader than the limited geographical region required by the statute before 2021. "Connectivity" means "one or more projects necessary to achieve transit connectivity between BART's rapid transit system and the San Joaquin Regional Rail Commission's Altamont Corridor Express commuter rail service, and to provide quality, seamless service to riders using the services operating between the Tri-Valley and the San Joaquin Valley." (Pub. Util. Code, § 132651, subd. (d).)

Much as a layperson like the undersigned might think it would have been wise to make every effort to connect ACE with BART at an existing BART station in the Tri-Valley, or by building a new BART station proximate to an existing or planned ACE station in the Tri-Valley, the Legislature gave authority to the Authority that encompasses more than a single transfer point located in the Tri-Valley region. The court reaches that conclusion based on its own independent review of section 132652, consistent with Petitioners' reading of *Yamaha Corp. of America v. State Board of Equalization* (1998) 19 Cal.4th 1, 12, and without deference to the Authority's interpretation of the statute. Additionally, unlike the Authority, a layperson does not initially have access to all of the relevant facts. The court therefore turns to the record support for the Authority's actual exercise of its authority to determine if it acted arbitrarily by doing something that initially seems excessive and unnecessary.

No Abuse of Discretion By The Authority Under Section 1085

Petitioners ask the court to conclude that the Authority acted arbitrarily and capriciously because it failed to make specific factual findings about the cost-effectiveness of the Valley Link project. The court is not persuaded. The alleged industry standard metric of "cost per new rider" or "cost per new trip," which Petitioners urge the court to rely on, are not mandated by the statute and cannot reasonably be inferred from it.

The Legislature instead directed the Authority to pursue "cost-effective" connectivity. The Legislature did not assign a specific definition to that term. "Cost-effectiveness is not easily measured," as it involves weighing costs and benefits, not all of which can be measured quantitatively. (*Ass'n of Irrigated Residents v. State Air Res. Bd.* (2012) 206 Cal.App.4th 1487, 1500.) Nothing in the statute,

legislative history, or administrative record indicates that the Legislature intended to set specific criteria for measuring cost-effectiveness. The record reflects that the Authority considered various costs, benefits, and alternatives. (See, e.g., AR7724 [estimating in feasibility report that “Valley Link rail service between Dublin/Pleasanton BART and North Lathrop ACE would attract the most riders, but would also have the greatest operating and capital costs.”]; AR11073 [describing inferior transportation outcomes and environmental benefits associated with Iron Horse Trail alternative]; AR12496 [dismissing Altamont Tunnel alternative based on cost and delay concerns]; AR12503–04 [Table 5-12. Alternatives Screening, Tier 1: Project Objectives].) Petitioners have not established that more was required.

Petitioners further argue that the Authority failed to assess consistency with the 2019 project feasibility report. As noted above, the statute contemplates that the Authority will plan, develop, and deliver transit connectivity that “consistent with the project feasibility report adopted pursuant to Section 132661.” (Pub. Util. Code, § 132652, subd. (a).) Petitioners cite changes in the estimated costs and details of the project design.

Again, the court is not persuaded that the statute required the Authority to use specific criteria in evaluating consistency. Indeed, flexibility in project planning is required during, for example, the CEQA process, when an agency is required to consider alternatives and respond to comments. Petitioners also frame these arguments as examples of the Authority exceeding the scope of its power. As the court concludes that no specific findings regarding consistency were required and that the approved project is, in fact, consistent with the report, the court rejects this argument.

Testing the court’s conclusions by attempting to apply Petitioners’ proposed test, the court is not persuaded that the differences Petitioners identified rendered the approved project inconsistent with the feasibility report. Petitioners ask the court to apply the test used to review general and regional plans: “Because policies in a general plan reflect a range of competing interests, the governmental agency must be allowed to weigh and balance the plan’s policies when applying them, and it has broad discretion to construe its policies in light of the plan’s purposes,” and a “project need not conform perfectly to every general plan policy to be consistent with the general plan.” (*Golden Door Props., LLC v. County of San Diego* (2020) 50 Cal. App. 5th 467, 499.) The feasibility report reflected the Authority’s assessment of interests identified in the statute, as does Resolution No. R08-2021, in that they both call for 42-mile, 70-station passenger rail systems to connect between Dublin/Pleasanton and North Lathrop Stations using existing transportation corridors where feasible. (Compare AR7702–3 with AR11347.)

Petitioners contend that court should vacate the approval because there is no evidence that the approved “Initial Operating Segment” options would provide connectivity between BART and ACE. Two alternative Initial Operating Segments are discussed in the Final EIR that was approved by Resolution No. R08-2021. The statute expressly authorizes “one or more projects necessary to achieve transit connectivity.” (Pub. Util. Code, § 132651, subd. (d).) An Initial Operating Segment would not, by itself, be sufficient to achieve seamless connectivity, but all segments are necessary to the desired result.

Finally, Petitioners argue that the approval was arbitrary and capricious because there is no evidentiary support for the “regional consensus” contemplated by the statute. Petitioners cite evidence that Valley Link may not coalesce with regional transit plans. They also note that voters in the City of Tracy rejected a ballot measure promoting the Valley Link project.

The statute itself describes that "regional consensus" is built in via the Authority's board membership. (See Pub. Util. Code, § 132655.) If evidence of any disagreement within the region was sufficient to vacate an approval, the Authority would likely never have authority to begin, let alone complete, the rail connection.

CONCLUSION

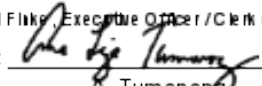
Petitioners' characterization of the statute that created and empowers the Authority is odds with its text. To the extent that the rail connection between BART and ACE has experienced "mission creep," as Petitioners contend, it was approved by the language the Legislature adopted and amended to empower the Authority. The scope of the Authority's mandate (as amended) is broad, and the requirements are open-ended and discretionary. As for the Authority's decision-making (separate and apart from its enabling statute), the "court may not substitute its judgment for that of the public entity, and if reasonable minds may disagree as to the wisdom of the public entity's discretionary determination, that decision must be upheld." (See *Alameda Health Sys. v. Alameda County Employees' Ret. Ass'n* (2024) 100 Cal.App.5th 1159, 1177.) The court must deny Petitioners' requests for a writ.

IT IS SO ORDERED.

May 12, 2025



Michael M. Markman
Judge, Superior Court of California
Alameda County

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA	Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612	FILED Superior Court of California County of Alameda 05/12/2025
PLAINTIFF/PETITIONER: MONTCLAIR VILLAGE HARDWARE et al	Chad Finke, Executive Officer / Clerk of the Court By:  Deputy A. Tumonong
DEFENDANT/RESPONDENT: Tri-Valley-San Joaquin Valley Regional Rail Authority (Authority) et al	
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6	CASE NUMBER: RG21110126

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Order Denying Writ of Mandate entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

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Dated: 05/12/2025

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By:



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