



Cynthia T. Brown, Chief.
Section of Administration, Office of Proceedings
Surface Transportation Board
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Washington, DC 20423-0001

June 2, 2021

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Office of Proceedings
June 8, 2021
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Public Record

RE: Finance Docket No. 36488

Dear Ms. Brown:

Thank you for considering our comments on the Petition of Exemption submitted by Brightline West for the portion of its XpressWest high speed rail project proposed for the corridor between Apple Valley and Rancho Cucamonga. We appreciate your granting of an extension of the deadline for submitting these comments.

NPCA is America's only private, non-profit advocacy organization solely dedicated to protecting and enhancing America's national parks. NPCA was founded in 1919 and today has over 1,000,000 members and active supporters, including more than 100,000 in California. Our field office staff in the California desert works to protect the natural and cultural resources of Joshua Tree National Park, Death Valley National Park, Sand to Snow, Castle Mountain, and Mojave Trails national monuments, Manzanar National Historic Site, and Mojave National Preserve.

We strongly support the development of electric high-speed rail in applications such as the XpressWest project. However, such projects must be developed with scrupulous adherence to existing environmental and cultural resource protection laws. We have significant concerns that the Federal Railroad Administration has been giving short shrift to its obligations under the National Environmental Policy Act (NEPA) and section 106 of the National Historic Preservation Act (NHPA.) Given these concerns, we view with alarm the Petition's proposed exemption of the segment of the rail project at issue from compliance with the California Environmental Quality Act.

We are not persuaded that the previous segment of the XpressWest project, between Apple Valley and Las Vegas, NV, has been adequately assessed under NEPA, given that the planned alignment of the rail line passes through an area that was specifically excluded from consideration in the most recent NEPA documents due to "significant environmental impacts." It seems arguable that consideration of an exemption for the second leg of this project, when the first leg has not yet even broken ground, constitutes part of an effort to segment or "piecemeal" environmental and cultural resource impact assessment of the rail project as a way to avoid contemplating the cumulative impact of the project as a whole. This is especially true given the unlikelihood that the first leg of the high-speed rail project would even be economically viable without successful implementation of the second leg. In other words, there is no viable project without this second phase, which means the impact of both phases should be considered together. This applies to both environmental impacts and impacts to cultural resources, which have not yet been sufficiently assessed even in the first phase of the project.

Exemption from CEQA would threaten harm to California natural and cultural resources and civil rights by limiting opportunities for significant consultation with affected tribal governments over impact to potential cultural objects and burial sites, including planning for recovery or repatriation of important cultural and funerary objects and human remains, a priority issue for the California state government reflected in the amendment of CEQA by the passage a decade ago of AB 52. CEQA provides guarantees of required funding for mitigation efforts not afforded by NEPA, even if a full and robust NEPA analysis were to be carried out.

Further, CEQA review would analyze project impacts on species not afforded federal protection, such as the desert bighorn sheep, a California fully protected species whose prospects for long-term survival in the California desert are already severely threatened by the first phase of this project, through the incorporation of six-foot safety barriers on either side of the right of way, which would permanently sever desert bighorn populations in California into northern and southern metapopulations on either side of the right of way. Extending this barrier through the Cajon Pass would further subdivide desert bighorn sheep populations, putting the newly isolated population in the San Gabriel Mountains at heightened risk of deterioration through inbreeding, and increasing the risk of collisions with automobiles when sheep are turned back from the rail right of way in the already hazardous Cajon Pass area.

NPCA urges the Board to deny the XpressWest project exemption from CEQA review, and to recommit to a thorough and exhaustive assessment of the impacts of the project as a whole. Should the Board decide to grant the exemption, we urge the Board to require a full assessment under NEPA and Section 106 of NHPA before finalizing the exemption.

Thank you for the opportunity to comment.

Sincerely,



Chris Clarke
Ruth Hammett Associate Director, California Desert Program
National Parks Conservation Association

Cc: The Hon. Gavin Newsom, Governor
The Hon. David Kim, Sec. of CA Dept. of Transportation
The Hon. Toks Omishakin, Dir. of the CA Dept. of Transportation
Kenneth Ramirez, San Manuel Band of Mission Indians
Richard S. Edelman, SEIU
Robert Martin, Morongo Band of Mission Indians
Terence Hynes, DesertXpress Enterprises LLC