

Landowners drop lawsuit against high-speed rail

Tim Sheehan. Fresno Bee, 2-24-13

A collection of landowners whose properties are in the path of proposed high-speed trains in Madera and Fresno counties have dropped their lawsuit against the California High-Speed Rail Authority.

The rail authority announced Friday that it reached a settlement with Timeless Investment Inc., Millennium Acquisitions Inc., Horizon Enterprises and Everspring Alliance LP. It is the second lawsuit against the authority to be dismissed in less than a month.

The settlement came as a relief to the rail authority, although for months the agency publicly expressed confidence that it would prevail in court. "This second settlement is another step in moving high-speed rail forward," authority CEO Jeffrey Morales said Friday.

At one point, the rail authority faced three separate legal challenges in Sacramento Superior Court over its May 2012 approval of the Merced-Fresno stretch of the route. In late January, the city of Chowchilla dropped its suit. The last remaining case is led by the Madera and Merced county farm bureau organizations, the Madera County Board of Supervisors, the Chowchilla Water District and Preserve Our Heritage, a farm advocacy group.

All three lawsuits alleged that the rail authority violated provisions of the California Environmental Quality Act, and were being handled in one court proceeding. A judge is scheduled to hear the remaining case in April in Sacramento.

While the rail authority's settlement with the city of Chowchilla included agreeing to pay up to \$300,000 of the city's legal fees in the case, the Timeless/Millennium agreement includes no financial settlement to the plaintiffs. Instead, the agreement states, the two sides "believe that their mutual interests will be best served if the Timeless lawsuit is dismissed."

Timeless Investment and Millennium Acquisitions own property along Golden State Boulevard in northeast Fresno, including the former Klein's Truck Stop at Herndon Avenue. Everspring owns a 136-acre parcel of farmland at Avenue 12 and Road 30 1/2 in Madera County. The high-speed train route approved by the rail authority in May passes through both the Everspring farmland and the Klein's site. Horizon owns property in the path of one potential route alternative.

The rail authority expects to begin construction this summer in the Madera-Fresno area, the first stretch of a statewide rail system. The Merced-Fresno route approved by the authority last year runs along the Union Pacific Railroad freight tracks between Merced and a point north of Chowchilla. From south of Chowchilla to east of Madera, the route follows the BNSF Railway freight tracks now shared by Amtrak's San Joaquin passenger trains, and then curves across farmland to rejoin the Union Pacific/Highway 99 corridor near the San Joaquin River. The route follows the UP tracks through the city of Fresno.

The area near Chowchilla is where high-speed trains would branch westward toward Gilroy and San Jose. But no decision has been made over where and how the Gilroy-San Jose line will connect to the Merced-Fresno line.

The Timeless/Millennium lawsuit complained that the environmental impact report for the Merced-Fresno section was flawed because it did not consider alternative routes that would be less disruptive to agriculture or businesses, including the Interstate 5 corridor on the west side of the San Joaquin Valley or options through largely vacant property in northwest Fresno between the San Joaquin River and Bullard Avenue.

Fresno attorney Craig Tristao, who represented Timeless, Millennium, Everspring and Horizon, filed the request for dismissal with the Sacramento court in mid-January, but the final plaintiff's signature on the settlement agreement wasn't secured until Jan. 31.

Tristao did not return a call seeking comment.

The Timeless/Millennium lawsuit, the now-dismissed Chowchilla suit and the still-pending Madera County/Farm Bureau suit all suffered setbacks last fall, when Judge Timothy Frawley refused to block the rail authority from any planning, engineering or other work on the Merced-Fresno route until the lawsuits came to trial in April. In a Nov. 16 ruling rejecting the motion for an injunction, Frawley said he was unconvinced that the plaintiffs could win at trial.

The rail authority still faces litigation on other fronts, including a lawsuit by Kings County farmer John Tos, resident Aaron Fukuda and the Kings County Board of Supervisors alleging that the authority's plans violate Proposition 1A, the bond measure approved by California voters in 2008 to provide more than \$9 billion for the project. The Kings County case is set for a jury trial beginning May 31 in Sacramento.