

# San Francisco judge delivers setback to high-speed rail project

By Michael H. Russo, Sacramento Bee, 11-26-13

Sacramento Superior Court judge on Monday ordered the agency building California's high-speed rail to abandon its original funding plan, a decision that figures to halt state bond funding for the \$68 billion project until a new plan is put in place.

In another ruling in the same case, Judge Michael P. Kenny refused to block the California High-Speed Rail Authority from spending the \$3.4 billion in federal money it already has obtained to build an initial segment near Fresno.

In a third case, Kenny declined the rail authority's request to validate its issuance of \$8 billion in bonds that California voters approved in 2008 in Proposition 1A. The ruling sets the stage for several of the project's opponents to challenge its financing even further.

The rulings appeared to be a setback for construction of a bullet train that would travel from Los Angeles to San Francisco through the Central Valley, advocates on both sides argued over just how bad it was for the high-speed rail in California.

The plaintiffs' attorneys who represented a grower, a homeowner and the Kings County Board of Supervisors argued that Kenny's rulings amounted to a golden spike through the heart of the train.

"The court has stymied," said Michael J. Brady, a Redwood City lawyer for the plaintiffs. Brady interpreted the ruling to mean that the project can't move forward until the state identifies where its funding will come from. The authority has environmental clearances on its proposed 296-mile "usable segment" from Merced to the Sacramento Valley.

In a brief statement by Dan Richard, board chairman of the California High-Speed Rail Authority board, he said:

"The court's statement said the court 'again declined the opposition's request to stop the high-speed rail project from moving forward.'

"The court did not invalidate the bonds as approved by the voters," Richard said. "Like all transformative projects, we understand there will be many challenges that will be addressed as we go forward," his statement said.

The court ruled in August that the rail authority was out of compliance with the mandates of Proposition 1A, which authorized \$9.95 billion for bullet train construction, on matters related to its funding stream and

's a question of huge delays," Brady said

e judge refusing to block the expenditure of the federal funds, Brady said, "I believe the federal government as a political and legal matter will now take a long, hard look, and they will ask themselves, means no matching funds can be put up possibly for years, if ever, until all these deficiencies are very pleased," Brady said. "We think this project is now at a standstill, where it should be."

eed rail officials declined to comment beyond Richard's statement.

idon, a former Santa Clara County supervisor and one-time high-speed rail board chairman, said it will likely make the project more expensive and take longer to finish. But he insisted it won't stop

ority already has environmental clearances for a 25-mile stretch from Madera to Fresno and the it, said Diridon, now executive director of the Mineta Transportation Institute in San Jose

n talking to a lot of people around the world, I think once the high-speed rail filibuster has been lifted in California, you'll see a franchise bid come forward," Diridon said. "That franchise bid is when (interests from) Japan or Korea or Germany and Italy step forward for the right to operate the system and retain it for the next 30, 40 or 50 years. All it takes for the dirt to be turned is a valid environmental clearance in the Central Valley."

turned down the authority's application for a bond validation on grounds that a finance committee under the 2008 initiative "did not comply with an essential legal requirement" to put evidence on record on why the issuance of the bonds would be "necessary or desirable."

f the other ruling on the funding plan, "I think the committee would have a very hard time justifying going ahead and issue the bonds," a second plaintiffs' lawyer, Stuart M. Flashman of Oakland, said

said the validation ruling will allow seven possible challenges to the bonds to go ahead separately and not in one case. The validation opponents include the plaintiffs in the funding case— Hanford area resident John Tos, homeowner Aaron Fukuda and Kings County. Others were the Kings County Water District, Citizens for California High-Speed Rail Accountability, the Howard Jarvis Taxpayers Association, Union Pacific Railroad, Eugene Voiland, Kern County and the Free Will Baptist Church.