

# Dan Walters: California's high-speed rail survives legal duel

Dan Walters, *The Sacramento Bee*, 3-8-16

California's highly controversial bullet train project dodged a bullet Tuesday when a judge declared that opponents had not proved that it would violate provisions of a 2008 bond measure.

Sacramento Superior Court Judge Michael Kenny, whose earlier ruling favoring opponents on another aspect of the project had been set aside on appeal, more or less punted in his latest decision.

While the High-Speed Rail Authority "does not have sufficient evidence to prove that the blended system can currently comply with all of the bond act requirements," he wrote, "the authority may be able to accomplish these objectives at some point in the future (and) there is no evidence currently before the court that the blended system will not comply."

The "blended system" to which Kenny referred is a decision to merge the high-speed system with an electrified commuter rail service on the bucolic San Francisco Peninsula, aimed at quieting resistance among its affluent residents.

Opponents said blending will slow the train and make it impossible for it to run between San Francisco and Los Angeles in 2 hours, 40 minutes as the bond act requires.

The time requirement was one of three allegations made by the plaintiffs, Kings County's government and local farmers, that the project violates the bond measure.

Kenny, in rejecting all three, said, in effect, that it's too early to tell whether the project violates the bond measure's provisions because it's "an ongoing, dynamic, changing project."

After Kenny heard arguments in the suit – one of several challenging the project's viability and legality – project managers announced a major change.

It shifts emphasis from extending the initial stretch of track, now being constructed in the San Joaquin Valley, southward to building a northern section first, linking San Francisco with the Bakersfield area.

The revised project includes the blended section on the San Francisco Peninsula and has reawakened opposition in that area.

Kenny's decision in the Kings County suit, which was less than decisive, may be appealed, and the other suits are still pending, which means the project still has legal hurdles to clear, as well as financial ones.

The state has been unable to sell bonds because of the pending litigation and has been relying mostly on a federal grant for San Joaquin Valley work. That grant requires matching funds and federal officials have temporarily waived the requirement to keep the project alive, but eventually the state will have to pony up its share.

Meanwhile, the rest of the estimated \$64 billion the project would cost remains problematic. It's doubtful whether any more federal funds will be forthcoming, at least as long as Republicans control Congress, and the hoped-for private or overseas government financing has yet to materialize.

So the project is still alive but will have to dodge many more bullets if it is to become reality. And public support, never overwhelming, has eroded markedly since 2008.