



**CALIFORNIA**  
High-Speed Rail Authority



# APPLICATION FOR NEPA ASSIGNMENT

**Brian Annis, Undersecretary, CalSTA**

**Mark McLoughlin, Director of Environmental Services**

**Board of Directors Meeting, Agenda Item #4**

**November 15, 2017**

**Sacramento, California**



**BRIAN ANNIS**

**UNDERSECRETARY**

**California State Transportation Agency**

# NEPA ASSIGNMENT: The Basics

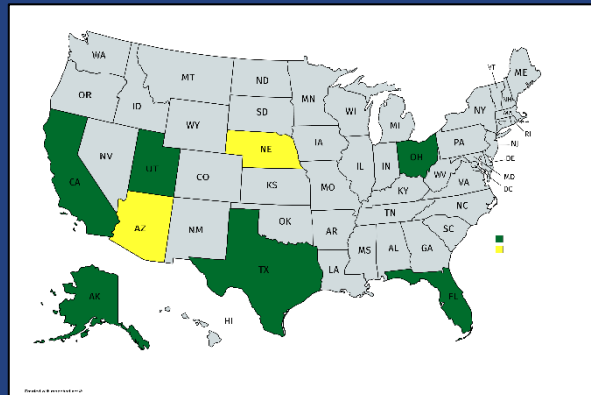
- **Surface Transportation Project Delivery Program**
  - » Pilot program authorized in SAFETEA-LU for highway projects
    - California first state in 2007
  - » MAP-21 expanded program in 2012
    - Extended assignment eligibility to rail, transit and multimodal projects
- **US Secretary of Transportation assigns all NEPA responsibilities**
- **State assumes federal lead role in NEPA with other federal environmental laws**
  - » State assumes all legal risk for challenges to environmental decisions and documents – waiving sovereign immunity
  - » Savings is from more efficient reviews – not from shortcutting process or legal requirements



# NEPA ASSIGNMENT: The Basics

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- Six states have entered into NEPA Assignment agreements with FHWA
- Nebraska recently waived sovereign immunity - first step towards NEPA Assignment
- Arizona is preparing to apply
- To date – only highway projects are under NEPA Assignment



# NEPA ASSIGNMENT: Caltrans

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- **Caltrans Assumed NEPA Responsibilities 10 Years Ago**
- **Caltrans NEPA Assignment Details:**
  - » Deemed Successful at State and Federal Level
  - » Made nearly 12,000 approvals for State Highways and Local Roads
- **Caltrans Time Savings**
  - » 10.8 Months for Draft Environmental Assessments
  - » 12.5 Months for Final Environmental Assessments
  - » 28 Months for Finalizing Environmental Impact Statements
- **Relative to the project cost savings, NEPA Assignment costs have been minor:**
  - » About \$1.5 million per year from 7 staff and litigation costs

# NEPA ASSIGNMENT: Timeline & Milestones for Rail

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- **February/May 2017**

- » Governor Brown Sends Letter Regarding High Priority Infrastructure Projects & Environmental Streamlining

- **June 2017**

- » CalSTA Secretary Kelly Send Letter to US DOT Requesting NEPA Assignment
- » CalSTA Designated the Main Contact for NEPA Assignment

- **September 2017**

- » Assembly Bill 135 Signed, Granting Sovereign Immunity for Rail and Rail Related Transit Projects

- **November 2017**

- » Draft NEPA Assignment Application Posted for Public Review

- **March 2018**

- » Execute NEPA Assignment MOU

**MARK MCLOUGHLIN**

**DIRECTOR OF ENVIRONMENTAL SERVICES**

**California High-Speed-Rail Authority**

# WHAT ARE THE GOALS OF NEPA ASSIGNMENT?

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- **Streamline the Environmental Review Process while still meeting environmental protection standards**
- **Provide a seamless transition from the FRA as the Lead Federal Agency to the Authority as the Lead Federal Agency**
- **Reduce Schedule Risk**



# SCOPE OF THE NEPA ASSIGNMENT PROGRAM

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- **A MOU between the FRA and the State defines the NEPA Assignment**
- **The MOU defines the range of project actions related to the High-Speed Rail System and environmental responsibilities that the State assumes**
- **FRA retains the following:**
  - » Engineering decisions
  - » Safety and Security reviews and decisions
  - » Statewide and metropolitan planning
  - » Project-level air quality conformity determinations
  - » Government to government Tribal consultation
  - » Certain 4(f) determinations
  - » Projects that cross state lines



# HOW WILL THIS AFFECT HIGH-SPEED RAIL?

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- **The Authority must comply with its MOU commitments:**
  - » Maintain detailed files, records and make them available to FRA
  - » Conduct regular self assessments and continuous QA/QC on all actions
  - » Maintain professional and experienced staff to carry out the necessary scope
  - » Report all NEPA decisions to FRA

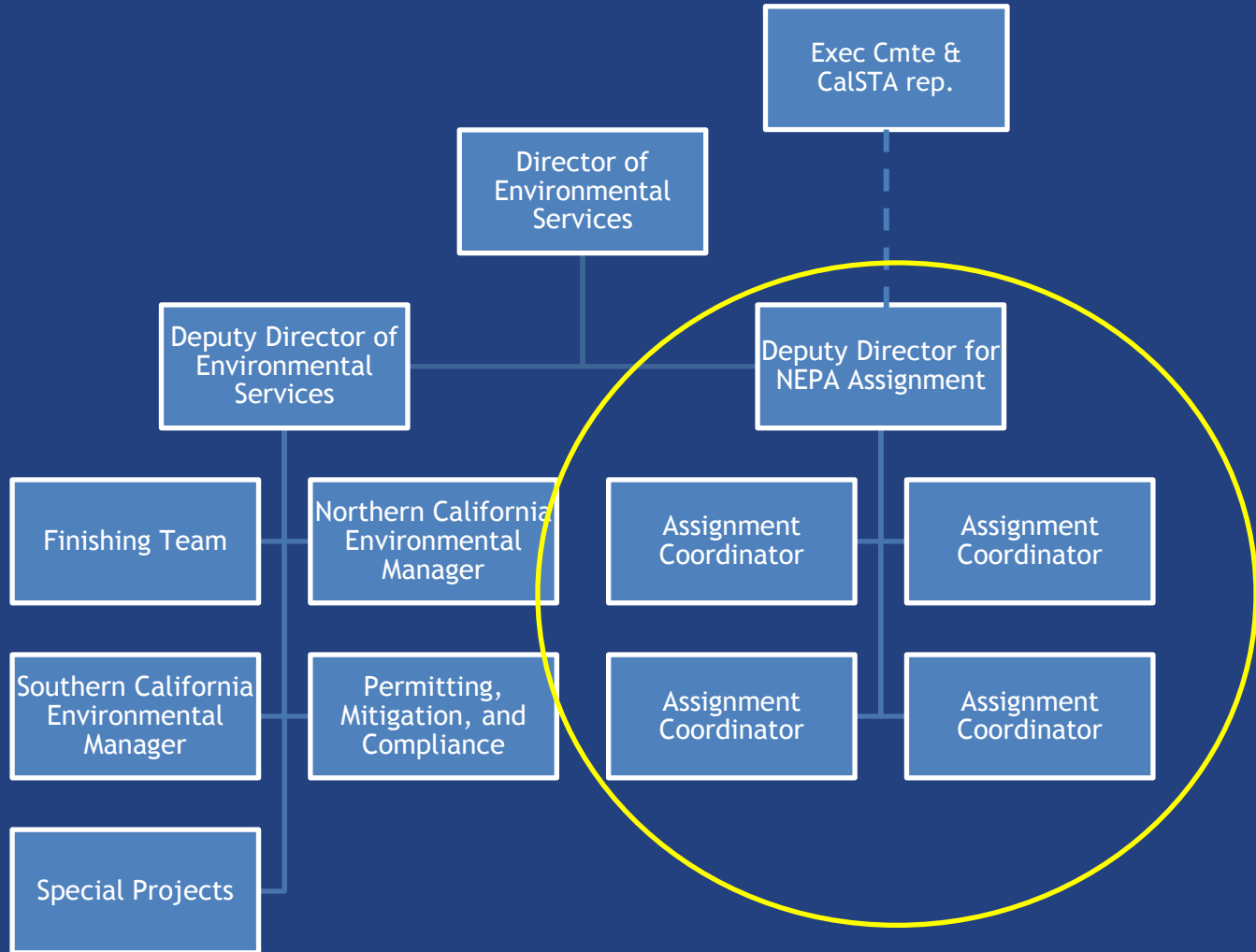


# HOW MIGHT HIGH-SPEED RAIL HAVE TO CHANGE?

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- Must be able to lead the environmental review process
- Must provide for the completeness and accuracy of all environmental information and decisions
- “If it’s not written down, it didn’t happen!”
  - » The Authority has to document it’s actions effectively
  - » Confirm that high-speed rail actions are tracked
  - » Provide that it accounts for its actions
- Safeguard that headquarters and regions carry out these commitments

# NEPA ASSIGNMENT TEAM



# DRAFT APPLICATION FOR NEPA ASSIGNMENT

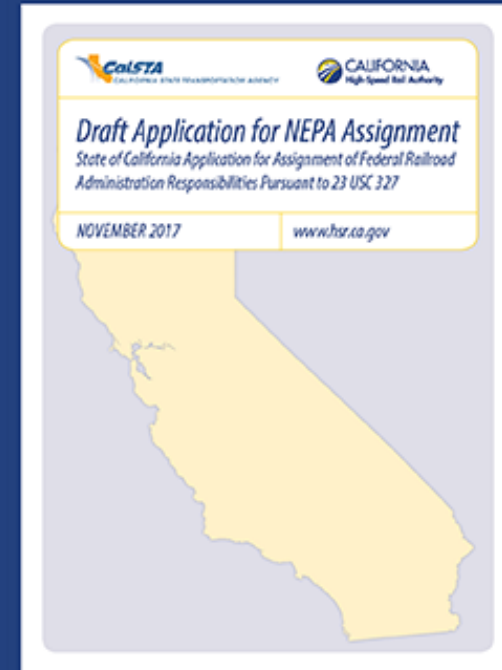
- **Pre-Application**

- » Pre-Application meeting
- » Waiver of sovereign immunity

- **Application Contents**

- » Define Scope of Assignment
- » List of laws being assigned
- » How high-speed rail currently administers the environmental program and how it will change to reflect Assignment

- **Issued on November 9 for 30 Day Public Review**



# SCOPE OF THE NEPA ASSIGNMENT APPLICATION

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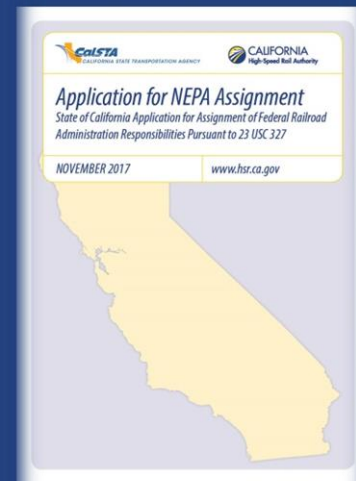
- **All projects necessary to deliver the high-speed rail system including all Phase 1 and Phase 2 projects as currently defined**
  - » Upon mutual agreement between FRA, CalSTA, and the Authority, any project that directly connects to stations on the HSR System including:
    - Link Union Station (LA Metro) – NEPA Lead
    - West Santa Ana Branch Metro Extension (LA Metro) – cooperating agency
    - ACEforward project along the Altamont Corridor Express System
- **Additional projects may be added by amending the MOU and Application**

# NEPA ASSIGNMENT: Public Comment Period

- Started on Thursday, November 9 and Ends on Monday, December 11

- **Several Ways to Comment:**

- » Provide written or oral comment at the Authority's **APPLICATION FOR NEPA ASSIGNMENT** meeting on November 15, 2017.
- » Online via our web comment form
- » Via email at [NEPA@hsr.ca.gov](mailto:NEPA@hsr.ca.gov)
- » Mail your comment to:
  - Attn: NEPA Assignment Application
  - California High-Speed Rail Authority
  - 770 Street, Suite 620 MS-1
  - Sacramento, CA 95814



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