

SETTLEMENT AGREEMENT
COUNTY OF MADERA AND CALIFORNIA HIGH-SPEED RAIL AUTHORITY

This Settlement Agreement (“Agreement”) is made and entered into by and between Plaintiff/Petitioner COUNTY OF MADERA (“Petitioner County”) and Defendant/Respondent CALIFORNIA HIGH SPEED RAIL AUTHORITY (“HSRA”). Petitioner County and HSRA are collectively referred to as the “Parties” and sometimes individually referred to as a “Party.”

This Agreement memorializes the understanding of the Parties and is entered into by the Parties to fully and finally resolve Petitioner County’s involvement in the following pending matter: *County of Madera; Madera County Farm Bureau; Merced County Farm Bureau; Preserve Our Heritage; Chowchilla Water District; Fred Fagundes; Ralph Fagundes; Lloyd Fagundes; Deborah Fagundes; Vicki Fagundes; Ralph Fagundes and Vicki Fagundes, Trustees of the Fagundes Family Trust; Fagundes Brothers Dairy; Fagundes, Fagundes, Fagundes; Fagundes Brothers, LLC; Fagundes Dairy; Fagundes Dairy #2; Valley Calf, LLC; and Forebay Farms, LLC v. California High Speed Rail Authority* (Sacramento County Superior Court Case No. 34-2012-80001165) (filed June 1, 2012) (the “Lawsuit”). The plaintiffs and petitioners in the Lawsuit, not including Petitioner County, are collectively referred to herein as the “Other Petitioners”.

RECITALS

A. On May 3, 2012, HSRA, through its Board of Directors and by means of a series of resolutions, certified pursuant to the California Environmental Quality Act (Public Resources Code § 21000 *et seq.*) (“CEQA”) the Final Environmental Impact Report (“FEIR”) and approved a proposed project known as the Merced to Fresno Section of the High Speed Train System (the “Approved MF Project”).

B. On May 3, 2012, the HSRA filed a Notice of Determination with the State Clearinghouse in the Governor’s Office of Planning and Research.

C. On June 1, 2012, Petitioner County and the Other Petitioners filed the Lawsuit, which consists of a Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief (“Petition”) challenging HSRA’s approval of the Approved MF Project under CEQA and under the Bagley-Keene Open Meeting Act (Government Code §§11120 *et seq.*).

D. In 2012, HSRA completed and certified the administrative record (under Public Resources Code §21167.6) for the Lawsuit (“Record”) and lodged it with the court (Department 29).

E. The Parties to this Agreement believe that their mutual interests will be best served if Petitioner County ends its participation in the Lawsuit – by dismissing the Lawsuit, as to Petitioner County – per the terms of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and/or covenants contained in this Agreement and any other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Recitals and Definitions Incorporated. Each recital and definition set forth above is incorporated herein by reference and is made part of this Agreement.

2. No Admissions. All Parties understand and agree that nothing in this Agreement, or in the execution of this Agreement, shall constitute or be construed as an admission of wrongdoing by any Party or of any inadequacy or impropriety in connection with HSRA's approval of the Approved MF Project.

3. Dismissal of Petition with Prejudice. Within three (3) court days after this Agreement is fully executed by all Parties, Petitioner County shall execute and file and serve a dismissal of the Lawsuit, as to Petitioner County in its entirety, with prejudice (the "Dismissal"). The Dismissal shall be in the exact form (except the addition of a signature by someone representing Petitioner County with requisite authority) as the Dismissal form attached hereto and incorporated herein as Attachment A, which form is acceptable to the Parties.

4. Other Matters Agreed upon.

4.1 Each Party shall bear its own legal fees and costs as to Petitioner County's involvement in the Lawsuit.

4.2 HSRA shall not pursue recovery from Petitioner County of any costs incurred by HSRA in its preparation of the Record or otherwise associated with the preparation of the Record. By agreeing not to pursue recovery of such costs from Petitioner County, HSRA is not explicitly or implicitly waiving its rights to seek recovery from the Other Petitioners in the Lawsuit of the full amount of costs HSRA incurred in preparing the Record.

4.3 Avenues 15 and 15 ½: The Approved MF Project already includes grade separating these, by reconstructing these roads as overcrossings of the high-speed train ("HST") tracks; HSRA commits to these overcrossings as approved. County agrees to allow these roads to be closed during construction with proper detours, provided they are not closed at the same time.

4.4 Avenue 13. HSRA agrees to not build an overcrossing.

4.5 Avenue 12. The Approved MF Project already includes grade separating Avenue 12, by reconstructing it as a two-lane overcrossing, from the HST tracks. HSRA agrees, subject to any necessary environmental clearances and permits (e.g., CEQA, state and federal agency environmental permits, etc.), to construct the overcrossing to accommodate four lanes. HSRA also agrees, subject to any necessary environmental clearances and permits, to construct an overcrossing of Avenue 12 across the existing BNSF tracks located just to the east of the approved HST alignment; the overcrossing shall be able to accommodate four lanes. HSRA also agrees, subject to any necessary environmental clearances and permits, to not close Avenue 12 during construction and to widen Avenue 12 between the HST crossing and BNSF crossing to accommodate four lanes and construct such widened road on an embankment. HSRA and the

County recognize that a grade separation of Avenue 12 from the BNSF tracks is high on the CPUC's priority list for grade separation projects and will work diligently, with best efforts and cooperatively to obtain CPUC funding to construct this overcrossing. Any CPUC funding obtained will be used for the BNSF overcrossing directly and/or to reimburse HSRA for costs already expended on this overcrossing.

4.6 Avenue 9. The Approved MF Project already includes grade separating Avenue 9, by reconstructing it as a two-lane overcrossing from the HST tracks. HSRA agrees, subject to any necessary environmental clearances and permits (*e.g.*, CEQA, state and federal agency environmental permits, etc.), to construct the overcrossing to accommodate four lanes.

4.7 The crossings mentioned in subparts 4.3, 4.5 and 4.6 above must be designed for a 55MPH design speed.

5. Representations and Warranties; General Provisions. Each of the Parties represents, warrants, and agrees as follows:

5.1 The descriptive headings and titles used in this Agreement are for convenience only and shall not affect the meaning of any provision of this Agreement.

5.2 Each Party to this Agreement has received independent legal advice from its attorneys with respect to the advisability of making the settlement provided for herein, and with respect to the advisability of executing this Agreement.

5.3 This Agreement contains all of the representations and the entire understanding and Agreement among the Parties with respect to the matters described in the Agreement. Correspondence, memoranda, and oral and written Agreements that originated before the date of this Agreement are replaced in total by this Agreement unless otherwise expressly stated in this Agreement.

5.4 This Agreement may be modified or amended only by written agreement executed by all of the Parties.

5.5 Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties, any rights or benefits under or by reason of this Agreement. There are no third party beneficiaries of this Agreement.

5.6 In any litigation between the Parties regarding this Agreement, the prevailing party shall be entitled to recover, in addition to such other relief as may be granted, its reasonable costs and expenses, including reasonable attorneys' fees and court costs.

5.7 This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one Agreement. One or more signatures on this Agreement may be executed and delivered by facsimile or by PDF or JPEG attachment to an email, and each such signature shall constitute an original and valid signature. This Agreement shall become effective immediately upon execution by all of the Parties on the latest date appearing below.

5.8 If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the Parties shall amend this

Agreement and/or take other action necessary to achieve the intent of this Agreement in a manner consistent with the ruling of the Court.

5.9 The individuals signing this Agreement on behalf of each Party represent and warrant that they have full authority and are duly authorized to do so on behalf of the Party they represent.

5.10 The Parties shall cooperate to ensure that the steps necessary to implement this Agreement are carried out. The Parties to this Agreement agree to execute any further documentation that may be required to carry out the purpose of this Agreement and perform all acts necessary to effectuate the provisions of this Agreement. If any dispute related to the terms of this agreement arise between or among the Parties, the Parties will first meet and discuss the dispute in good faith in an attempt to resolve it.

5.11 The Parties agree that specific performance is an appropriate remedy for enforcement of this Agreement.

***** Signature Page Follows *****

Dated: April __, 2013

COUNTY OF MADERA, a subdivision of the
State of California



Max Rodriguez
Chairman, Madera County Board of Supervisors

Dated: April 16, 2013

APPROVED AS TO FORM:

COUNTY OF MADERA, a subdivision of the
State of California



Doug Nelson, Madera County Counsel

Dated: April __, 2013

CALIFORNIA HIGH-SPEED RAIL AUTHORITY, a
California State Agency

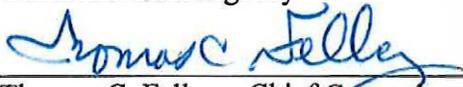


Jeff Morales
CEO

Dated: April __, 2013

APPROVED AS TO FORM:

CALIFORNIA HIGH-SPEED RAIL AUTHORITY, a
California State Agency



Thomas C. Fellenz, Chief Counsel

ATTACHMENT A

FOR COURT USE ONLY

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Jason W. Holder, Esq. CSBr# 232402
1221 Broadway, 21st Floor, Oakland, CA 94612
TELEPHONE NO.: (510) 451-3300 FAX NO. (Optional): (510) 451-1527
E-MAIL ADDRESS (Optional): jholder@fablaw.com
ATTORNEY FOR (Name): Petitioner - County of Madera

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sacramento
STREET ADDRESS: 720 9th Street
MAILING ADDRESS: 720 9th Street, Sacramento, CA 95814
CITY AND ZIP CODE: Sacramento, 95814
BRANCH NAME: Civil

PLAINTIFF/PETITIONER: County of Madera, a California subdivision
DEFENDANT/RESPONDENT: California High Speed Rail Authority, et al.

REQUEST FOR DISMISSAL

CASE NUMBER: 34-2012-80001165

A conformed copy will not be returned by the clerk unless a method of return is provided with the document.

This form may not be used for dismissal of a derivative action or a class action or of any party or cause of action in a class action. (Cal. Rules of Court, rules 3.760 and 3.770.)

1. TO THE CLERK: Please dismiss this action as follows:

- a. (1) [X] With prejudice (2) [] Without prejudice
b. (1) [] Complaint (2) [] Petition
(3) [] Cross-complaint filed by (name): on (date):
(4) [] Cross-complaint filed by (name): on (date):
(5) [] Entire action of all parties and all causes of action
(6) [X] Other (specify):* Entire action and all causes of action as to Petitioner/Plaintiff County of Madera only

2. (Complete in all cases except family law cases.)

The court [] did [X] did not waive court fees and costs for a party in this case. (This information may be obtained from the clerk. If court fees and costs were waived, the declaration on the back of this form must be completed).

Date: April 1, 2013

Jason W. Holder
(TYPE OR PRINT NAME OF [X] ATTORNEY [] PARTY WITHOUT ATTORNEY)

(SIGNATURE)

*If dismissal requested is of specified parties only of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

Attorney or party without attorney for:

- [X] Plaintiff/Petitioner [] Defendant/Respondent
[] Cross-Complainant

3. TO THE CLERK: Consent to the above dismissal is hereby given.**

Date:

(TYPE OR PRINT NAME OF [] ATTORNEY [] PARTY WITHOUT ATTORNEY)

(SIGNATURE)

** If a cross-complaint - or Response (Family Law) seeking affirmative relief - is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (f) or (j).

Attorney or party without attorney for:

- [] Plaintiff/Petitioner [] Defendant/Respondent
[] Cross-Complainant

(To be completed by clerk)

- 4. [] Dismissal entered as requested on (date):
5. [] Dismissal entered on (date): as to only (name):
6. [] Dismissal not entered as requested for the following reasons (specify):
7. a. [] Attorney or party without attorney notified on (date):
b. [] Attorney or party without attorney not notified. Filing party failed to provide [] a copy to be conformed [] means to return conformed copy

Date:

Clerk, by _____, Deputy