

Calif. high-speed rail agency will appeal judge's latest ruling

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The Fresno Bee

March 6, 2014

The California High-Speed Rail Authority plans to appeal a court ruling that would send the agency to trial on whether its planned bullet train can live up to performance requirements required under state law.

Sacramento Superior Court Judge Michael Kenny this week denied the rail agency's motion to dismiss part of a lawsuit filed by Kings County and two of its residents, farmer John Tos and homeowner Aaron Fukuda. Kenny's ruling Tuesday set the stage for a potential trial later this spring.

On Thursday, the rail authority said it will ask the Third District Court of Appeal for a writ to overturn Kenny's ruling. "We disagree with the March 4 Sacramento Superior Court ruling and are preparing to seek a review by the Court of Appeal," said Lisa Marie Alley, a spokeswoman for the agency.

Stu Flashman, an Oakland attorney representing the Kings County plaintiffs, expressed frustration at the state's decision.

"It seems the attorney general and governor are going to take every ruling Kenny makes on high-speed rail issues up to the Court of Appeal on a writ," Flashman said in an email after the state notified him of its intentions.

The Kings County suit alleges that the proposed 520-mile train line from San Francisco to Los Angeles cannot meet promises included in Proposition 1A, a \$9.9 billion bond measure approved by California voters in 2008. Among other claims, the suit asserts that trains won't be able to make a nonstop trip between San Francisco and Los Angeles in 2 hours 40 minutes, nor will the system be able to operate without a public subsidy.

The Third District Court of Appeal already has in its hands another portion of the Kings County case, in which Kenny ruled that the rail authority's 2011 finance plan violated Prop. 1A requirements to detail all of the sources for the \$31 billion needed to build its "initial operating segment" from Merced to the San Fernando Valley and certify completion of all environmental work for that operating segment.

The rail agency is also appealing another Kenny ruling refusing to validate the sale of Prop. 1A bonds to finance construction of the system, including the first 29-mile construction section between Madera and Fresno where work is supposed to begin this year.

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