

# Land deals slowing California high-speed rail plan | High-Speed Rail

By Tim Sheehan



A contingent of high-speed rail supporters from Fresno gather in front of the California EPA building in Sacramento, where they addressed the California High-Speed Rail Authority board earlier this month. The rail authority needs to buy more more parcels of land along the route to make way for construction.

TIM SHEEHAN — THE FRESNO BEE [Buy Photo](#)

The California High-Speed Rail Authority needs to buy more than 550 pieces of property to build its first 29-mile stretch of rail line between Avenue 17 in Madera to American Avenue south of Fresno.

And along the next 100 miles between Fresno and Bakersfield, as many as 1,150 more parcels of "affected" property have been identified that the agency may need to acquire in full or in part.

So far, however, only 71 parcels in the Madera-Fresno segment have been purchased and are available for construction.

Toss in a looming Federal Railroad Administration deadline of September 2017 — a little more than three years hence — by which time the authority must achieve substantial completion of both San Joaquin Valley sections, and the situation is clear:

The rail authority needs to get its real-estate act on track.

Lloyd Crask, a construction-management professor in the Lyles School of Engineering at Fresno State, said the rail agency seems to be between a rock and hard place. The rock is the immovable federal deadline, he said, "and the hard place is truly the acquisition of the land."

But Crask said the agency still has time to play catch-up — if it can effectively coordinate its land-buying efforts with the needs of its construction contractors.

It's been more than two years since the rail authority approved the first 29-mile construction section of its statewide bullet-train system.

A year ago, the agency awarded a \$1 billion contract to Tutor Perini Corp. of Sylmar, Zachry Construction of Texas and Parsons Corp. of Pasadena to design and build that first stretch of infrastructure from Madera through Fresno.

In May, the authority approved its Fresno-Bakersfield section and now is soliciting bids from contractors for the next construction segment from Fresno to the Tulare-Kern county line.

Together, the Madera-Fresno and Fresno-Bakersfield segments are forecast to be the backbone of a 520-mile system linking San Francisco and Los Angeles with electric trains carrying passengers at up to 220 mph. And while a few buildings have been demolished this summer in Fresno, substantial construction work — once anticipated to begin a year ago — has yet to commence.

A right-of-way plan in the construction contract for the Madera-Fresno section predicted that the rail authority would need to have about 130 parcels in hand by the end of last year, and more than 260 parcels by now, for the rail route and associated structures. What has been secured is a far cry from those expectations.

Construction crews cannot start their work until the rail authority has enough property — particularly, Crask said, for critical structures such as bridges, overpasses and tunnels that will take the most time to build. He said the slow land progress is probably not fatal — yet.

"But if they don't get started on some of those critical areas soon, they are not going to hit their deadline," said Crask, who has more than 30 years of experience in civil engineering and construction.

The rail authority is well aware of the concerns. The pace of right-of-way acquisition "is one of the largest risk factors that we have ... to our schedule and costs, said Jeff Morales, the rail agency's CEO.

Ron Tutor, president and chairman of Tutor Perini Corp., was unavailable last week to address how lagging property acquisition is affecting the construction schedule in the Madera-Fresno section.

But in a conference call with investment analysts this month, Tutor acknowledged having to wait for the authority: "Further construction work along the 29-mile route will proceed in the coming months as access to the various land parcels is provided by the authority. The state continues its process of acquiring these needed land parcels."

### **Halting steps**

In mid-2011, the rail authority took its first halting steps to hire consultants to help it buy the property it needs. At that time, the agency earmarked up to \$40 million for appraisals, surveying, mapping and other services in addition to agents to negotiate deals with property owners up and down the Valley.

Four real-estate consulting firms are working for the authority now under contracts worth up to a combined \$34 million (surveying, mapping and other services were broken out into a separate \$6 million contract). Their efforts have been focused solely on the Madera-Fresno segment because until earlier this year, that was the only segment that had full environmental clearances and approval from the Federal Railroad Administration.

Since 2011, delays on various fronts — including lawsuits, political wrangling over the agency's budget and

recalcitrant property owners — combined to stall progress to the point where a number of original appraisals on property in the Madera-Fresno section essentially went stale, real property director Don Grebe told the authority's board in June.

"Appraisals were synchronized with the original schedule (of) funding and environmental milestones," Grebe said. "This, combined with the effects of the rebounding economy, shortened the shelf life of these appraisals."

Now the agency is fielding proposals from several additional consultants to play catch-up in negotiating and sealing the deals for property in the rest of the Valley between Fresno and Bakersfield, which was approved by the state and the FRA this summer. It's expected that the new deals will pay up to \$35 million, on top of the \$34 million in the existing contract.

"The expansion of contractors is not about redoing any work," Morales said last week. "It's expanding the scope and putting more resources into the field. It's part of managing the risk."

Simply stated, more right-of-way agents are needed to get things moving faster.

The money being spent on contractors doesn't include what the authority anticipates having to pay for the land itself. As of this summer, the agency estimates that it will spend \$776 million on property along the route between Madera and Bakersfield. The authority expected to spend about \$70.4 million on real estate in the 2013-14 budget year that ended June 30, or a total of about \$82.1 million since 2012.

Not all of the property is needed all at once, Morales said, adding that the agency is focusing its attention on parcels the construction contractors need earliest in their schedule.

### **Mixed experiences**

So far, the authority said it has provided written purchase offers to all 410 property owners along the route between Madera and downtown Fresno.

But those written offers only mark the start of negotiations — and by no means guarantee that negotiations will reach a conclusion that is successful or satisfactory to both sides.

One example was the former Angelo's Drive-In, on Olive Avenue east of Golden State Boulevard in Fresno.

The 1950s-era burger stand closed in April and was demolished Aug. 1 to make way for a new Olive Avenue overpass to span the existing Union Pacific Railroad freight tracks and the new high-speed rail line — but not before the restaurant and owners, Cambodian immigrants Keav "Kay" Lim and Ken Chea, became local causes célèbre last summer and fall when loyal patrons learned that their hangout was doomed.

Lim and Chea were disappointed that appraisers working for the rail authority had valued their property and business at only \$120,000. They chose to eventually accept \$160,000, even though they believed it would take between \$300,000 and \$500,000 to be able to relocate to a new site. Without money to hire an attorney to help them in the negotiations, Lim said at the time, "what else can we do?"

Since December, the state Public Works Board has adopted almost two dozen resolutions authorizing the use of eminent domain to acquire land from owners with whom the rail authority has failed to negotiate a sale or who for various reasons simply don't want to sell their property.

Eminent domain, or condemnation, is a legal process by which a government agency can declare a public need for property and sue to acquire it if the government cannot reach agreement with the landowner.

A judge decides whether the agency is entitled to the property; in a second phase, a trial determines the fair market value and other "just compensation" due the owner. Verdicts can be no lower than the agency's offer and no higher

than the owner's counteroffer.

Attorneys say the process can take a year or more if the two sides cannot reach some sort of settlement before going to trial.

Rob Solley, who owned the former Horn Photo building on Belmont Avenue, east of Golden State Boulevard and the UPRR tracks, was to have been one of the first property owners targeted for an eminent domain resolution last December after negotiations stalled over price.

But on the cusp of the Public Works Board's vote, negotiations between Solley and his right of way agent restarted. "After December, things improved quite a bit, and we were eventually able to reach a number that we both could agree on," Solley said last week. "You know, the process dragged on a while, but in the end I think it was fair. The whole idea was to obtain a fair market value, and that's what we did."

Lisa Marie Alley, a spokeswoman for the rail authority, said that of 23 resolutions of necessity approved by the Public Works Board, nine cases have been negotiated to a settlement before reaching a judge. The remaining 14 are in various stages of the legal process in either Fresno or Madera counties. As of yet, however, none have been assigned a judge or given a court date, Alley said.

### **Caltrans' share of work**

The High-Speed Rail Authority and the Public Works Board aren't the only agencies involved in lining up property for the bullet-train right of way.

Under a \$226 million contract with the rail authority, the California Department of Transportation has its own small piece of the puzzle: relocating about two miles of Highway 99 about 100 feet to the west between Ashlan and Clinton avenues in central Fresno to make room for the high-speed rail tracks.

The work will result in the closure of Parkway Drive, a frontage road along the west edge of the freeway, displacing a number of businesses along the way.

In a progress report to the rail authority in June, Caltrans said it will need to acquire 51 parcels to accommodate the highway relocation. Of those, it had issued notices of appraisal to owners of 19 properties, and had made written offers and signed sales agreements for four parcels.

Caltrans established a right-of-way acquisition budget of \$80 million, and through April — the most recent report available — had spent just over \$1 million. That's in addition to about \$835,000 that has been spent, from a budget of about \$5.5 million, for services to support land purchases.

The rail authority estimates that it will cost about \$6 billion to build the two Valley segments, using a little more than \$3 billion from the Federal Railroad Administration and a little less than \$3 billion from Proposition 1A, a \$9.9 billion bond measure approved by voters in 2008.

Fresno State's Crask, who worked on the Highway 41 extension south of Fresno to Elkhorn Avenue, said he believes high-speed rail construction will move rapidly once enough properties are acquired at important sites — presuming that the rail authority, Caltrans, their contractors and right of way agents are coordinating their efforts to nail down land for the major structures first.

"I think everyone is real antsy right now," he said. "But I believe these teams are working in such a manner as to get things done in time ... and to make sure it's going to be a sound project as it goes through."

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