

RESOLUTION NO. 2015 – 03

BOARD OF DIRECTORS, PENINSULA CORRIDOR JOINT POWERS BOARD  
STATE OF CALIFORNIA

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**CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT  
FOR THE PENINSULA CORRIDOR ELECTRIFICATION PROJECT**

**WHEREAS**, in 2009, the Peninsula Corridor Joint Powers Board (JPB) completed a Final Environmental Assessment/Environmental Impact Report (EA/EIR) for the Peninsula Corridor Electrification Project (Project); and

**WHEREAS**, based upon that document, the Federal Transit Administration issued a Finding of No Significant Impact (FONSI), which completed the federal environmental review for the Project in accordance with the National Environmental Policy Act (NEPA); and

**WHEREAS**, the JPB deferred finalizing the 2009 EA/EIR under the California Environmental Quality Act (CEQA), in part due to concerns regarding the proper consideration of the impacts of the California High Speed Rail Project, which had proposed to construct high speed rail facilities on the JPB's right of way; and

**WHEREAS**, the JPB has since entered into an agreement with the California High Speed Rail Authority (Authority), dated May 1, 2013, which clarifies the roles of the JPB as the lead agency for the Project, with the Authority continuing to serve as the lead agency for the statewide high speed rail project; and

**WHEREAS**, the JPB has prepared, in conformance with CEQA, a new Environmental Impact Report (EIR) for the Project; and

**WHEREAS**, the Project analyzed in the EIR consists of converting Caltrain from diesel-hauled to electrically-powered trains for service between the 4<sup>th</sup> and King Street

Station in San Francisco and the Tamien Station in San Jose, with the future impacts of the Authority's project being treated as cumulative impacts; and

**WHEREAS**, a Notice of Preparation for the Peninsula Corridor Electrification Project EIR was issued on January 31, 2013; and

**WHEREAS**, the Draft EIR was released on February 28, 2014 for a 60-day public review and comment period; and

**WHEREAS**, the JPB received comments from interested individuals, organizations and agencies on the Draft EIR, both in writing and at four duly-noticed public meetings; and

**WHEREAS**, responses to comments on the Draft EIR, as well as the revised EIR were prepared and released to the public on December 4, 2014 and minor errata to the EIR were prepared prior to January 8, 2014; and

**WHEREAS**, the Draft EIR, as revised, together with the responses to comments, and the errata, constitute the Final EIR on the Project; and

**WHEREAS**, the JPB has reviewed and considered the Final EIR for the Project and desires to certify the FEIR for the Project in conformance with CEQA law and Guidelines; and

**WHEREAS**, the JPB is a federally regulated rail carrier, subject to the jurisdiction of the Surface Transportation Board (STB) of the U.S. Department of Transportation; and

**WHEREAS**, the STB's jurisdiction derives from the provisions of the Interstate Commerce Commission Termination Act of 1995 (ICCTA). Under Section 10501 (b) of that Act, the STB's jurisdiction is exclusive for all transportation by rail carriers, including the facilities and structures that are an integral part of that transportation. Section 10501 (b) also expressly states that "the remedies provided under this part with respect

to regulation of rail transportation are exclusive and preempt the remedies provided under Federal and State law." The scope of that preemption as relates to CEQA and passenger rail projects in California is currently under court review. The JPB makes this certification without waiving the JPB's rights regarding the application of the ICCTA, including the defense that ICCTA and the STB's jurisdiction preempt CEQA's application to the Project and the JPB's decision(s) regarding it.

**NOW THEREFORE BE IT RESOLVED**, that the Board of Directors of the Peninsula Corridor Joint Powers Board hereby certifies the Final Environmental Impact Report for the Peninsula Corridor Electrification Project (hereinafter "Project") based upon the following findings:

1. To the extent it is applicable to the Project, the Peninsula Corridor Joint Powers Board has complied with the requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Sections 21000 et seq., hereinafter "CEQA") and the State CEQA Guidelines (Cal. Admin. Code Title 14, Sections 15000 et. seq., (hereinafter "CEQA Guidelines")).
2. Four duly-noticed public meetings were held on said Draft EIR in March and April, 2014, at which time opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on April 29, 2014.
3. The JPB prepared responses to comments on environmental issues received at the public meetings and in writing during the 60-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information, and corrected errors in the DEIR. This material was presented in a Final EIR document, published on December 4, 2014, which was distributed to the Board and to all parties who commented on the DEIR, and was made available to others upon request at the JPB's offices. Minor errata to the EIR were prepared prior to January 8, 2014 and were also reviewed by the JPB.
4. The Final Environmental Impact Report, has been prepared by the JPB, as the lead agency, and consists of the DEIR, any comments received during the review process, any additional information that became available, and the responses to comments, all as required by law.

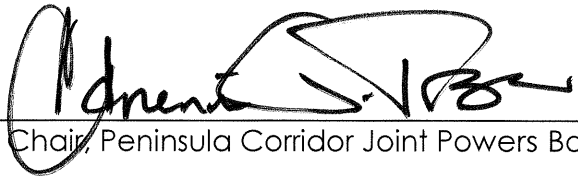
5. Project environmental files have been made available for review by the Board and the public. These files are available for public review at the Caltrain Headquarters in San Carlos, at 1250 San Carlos Avenue, and are part of the record before the Board.
6. At its meeting of January 8, 2015, the Board has reviewed and considered the Final EIR and hereby finds that the contents of said report and the procedures through which the Final EIR was prepared, publicized and reviewed are consistent with the provisions of CEQA and the CEQA Guidelines.
7. The Board has reviewed and considered the contents of the FEIR and hereby does find that the Final EIR reflects the independent judgment and analysis of the Peninsula Corridor Joint Powers Board, is adequate, accurate and objective, and that the Final EIR documents contain no significant new information to the DEIR that would require recirculation under CEQA Guideline Section 15088.5, and hereby does certify the completion of said Final Environmental Impact Report in compliance with CEQA and the CEQA Guidelines.
8. By this certification action, the Board does not waive the JPB's rights to the application of the ICCTA and does not waive any available defenses associated with the ICCTA and STB's jurisdiction, as discussed above.

Regularly passed and adopted this 8<sup>th</sup> day of January, 2015 by the following vote:

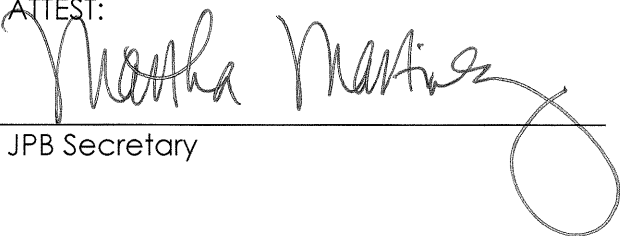
AYES: CISNEROS, GEE, GUILBAULT, NOLAN  
WOODWARD, YEAGER, TISSIER

NOES: NONE

ABSENT: COHEN, KALRA

  
Chair, Peninsula Corridor Joint Powers Board

ATTEST:

  
JPB Secretary