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A2603016

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the California High-Speed Rail Authority to Construct an Overhead Grade Separation at Avenue 17 over BNSF's Existing Track (MP 1021.42); and Proposed High-Speed Tracks (MP 168.67) within Madera County.

Application 26-03-016

**ADMINISTRATIVE LAW JUDGE'S RULING GRANTING LEAVE TO BRIEF
SUPPLEMENTAL ISSUES REGARDING AUTHORITY TO CONSTRUCT**

Summary

This Ruling authorizes and sets the scope and schedule for party briefing to supplement the Application 26-03-016 record regarding Applicant California High Speed Rail Authority's commencement of construction of grade separated overhead highway-rail crossing(s) over BNSF Railway Company Track (MP 1021.42) at Avenue 17 in the County of Madera, California prior to obtaining Commission approval.

Background

Pursuant to Public Utilities (Pub. Util.) Code Sections 1201-1205 and Commission Rules 3.7 and 3.9, on March 17, 2026, the California High Speed Rail Authority (CHSRA) filed Application (A.) 26-03-016 with its incorporated Exhibits A through E,¹ seeking authority to construct proposed tracks and a

¹ A.26-03-016 at Exhibit A (*Crossing Legal Descriptions (Avenue 17 Overhead)*), Exhibit B1 (*Vicinity Map*), Exhibit B-2 (*Structure Drawings*), Exhibit B3 (*Roadway Drawings*), Exhibit B4 (*Guideway*)
Footnote continued on next page.

highway-rail overhead grade separation in the County of Madera California at Avenue 17 located at California High Speed Rail Authority Milepost 168.67 and BNSF Railway Milepost 1021.42.²

Commissioner Christine Harada and Administrative Law Judge (ALJ) Andrea D. McGary were assigned to this A.26-03-016 proceeding on April 10, 2026.

The Commission's Rail Safety Division (RSD) filed a Response to the Application on April 23, 2026.³ The RSD Response asserts, in part:

The Commission's Rail Safety Division ("RSD") has determined that the request covers two separate grade separated crossings instead of one. In addition, the crossings have already been constructed without Commission authorization.⁴

On May 4, 2026, *Administrative Law Judge's Ruling Setting Remote Prehearing Conference & Prehearing Conference Statement Deadline* was issued setting a prehearing conference (PHC) for June 29, 2026 and a joint PHC Statement deadline of June 16, 2026. RSD and CHSRA timely filed and served a joint PHC Statement on June 16, 2026.⁵

Drawings), Exhibit D (*Scoping Memo*), Exhibit E (*Verification*). The subject construction is part of Applicant CHSRA's larger North Extension of the California High-Speed Train System Construction Package.

² A.26-03-016 at 3, Exhibit A (*Crossing Legal Descriptions (Avenue 17 Overhead)*).

³ See *Response To The Rail Safety Division To The Application of California High-Speed Rail Authority To Construct Two Overpass Grade-Separated Highway-Rail Crossings In the County of Madera* (April 23, 2026) (RSD Response).

⁴ Id at 1.

⁵ See *Joint Prehearing Conference Statement of The Rail Safety Division and The California High Speed Rail Authority* (June 16, 2026).

PHCs commenced on June 29, 2026 and August 20, 2026⁶ respectively, before ALJ McGary, to address the issues of law and fact, determine the need for hearing, set the schedule for resolving the matter, and to address other matters as necessary.

During the August 20, 2026 PHC, Applicant CHSRA was ordered to supplement the A.26-03-016 record regarding 1) the *Final Environmental Impact Report/Environmental Impact Statement For The Merced To Fresno Section of The California High-Speed Train Project*; 2) pertinent U.S. Department of Transportation Crossing Number(s); and 3) CHSRA's proffer that it could "assume risk" and move forward with construction of the subject crossing(s) without first obtaining Commission approval, including any legal authority and Commission precedent relied on.⁷ CHSRA filed timely supplements to the record on October 1, 2026 and October 16, 2026.⁸

During the August 20, 2026 PHC, ALJ McGary also provided the Parties with an option to request additional briefing after filing and review of CHSRA's supplements to the record.⁹ Respondent RSD requested additional briefing by email on October 9, 2026 and the request remains pending.

⁶⁶ See Administrative Law Judge's Ruling Noticing Reset Remote Prehearing Conference & Prehearing Conference Statement Deadline (July 10, 2026). See also Reporter's Transcript of June 29, 2026 Prehearing Conference Virtual Proceeding (file endorsed August 24, 2026). See also Reporter's Transcript of August 20, 2026 Prehearing Conference Virtual Proceeding (file endorsed September 1, 2026) (August 2026 PHC RT).

⁷ See August 2026 RT at 34:5-39:2.

⁸ See Supplemental Information of California High-Speed Rail Authority Pursuant To The Instruction of ALJ McGary at Prehearing Conference of August 20, 2026 (October 1, 2026). See also Amended Supplemental Information of Supplemental Information of California High-Speed Rail Authority Pursuant To The Instruction of ALJ McGary at Prehearing Conference of August 20, 2026 (October 16, 2026)

⁹ See August 2026 RT at 40:0-41:4

RULING

Good cause appearing, it is hereby Ordered as follows:

1. The October 9, 2026 request of Respondent Rail Safety Division for additional briefing is hereby GRANTED.
2. Scope of Briefing: Briefing shall be limited in scope to Applicant California High Speed Rail Authority's August 20, 2026 oral on record statements during the Prehearing Conference and October 1, 2026 and October 16, 2026 filed documents in support of its proffer that it could "assume risk" and move forward with construction of the Application 26-03-016 subject rail crossing(s) without first obtaining Commission approval and authority to construct.
3. Supplemental Briefs (November 6, 2026): Concurrent Briefs must be email served and filed on or before **November 6, 2026**.
4. Reply to Supplemental Briefs (November 23, 2026): Concurrent Reply Briefs must be email served and filed on or before **November 23, 2026**.
5. Page Limit: Briefs may not exceed 15 pages double spaced each.
6. Docket Office Authorization: The Commission Docket Office is hereby authorized to accept filing of the above listed 1) Supplemental Briefs until on or before November 6, 2026 and 2) Reply to Supplemental Briefs until on or before November 23, 2026.

Any requests to modify this Order, after the date of issuance of this Ruling, must be made by written motion, including at a minimum, a memorandum of points and authorities and a declaration to establish good cause grounds for any relief requested.

If necessary, the Commission may modify these instructions as needed to facilitate efficient resolution of the proceeding.

IT IS SO ORDERED.

Dated October 28, 2026, at San Francisco, California.

/s/ ANDREA D. MCGARY

Andrea D. McGary
Administrative Law Judge