

California High Speed Train Project – Merced to Fresno Permitting Phase 1

Clean Water Act Section 401 Water Quality Certification

Attachment F

Financial Assurances

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Financial Assurances for Implementation and Maintenance of Mitigation.

To reasonably assure implementation of the approved Permittee Responsible Mitigation Plan (PRMP) for the California High Speed Rail Project Merced to Fresno Section Permitting Phase 1 (PP1) as required by this Certification, the California High Speed Rail Authority (CHSRA) shall provide to the State Water Resources Control Board (State Water Board) for approval a form of financial assurance as soon as possible, but no later than one year (12 months) the earlier to occur of: (a) impacts to jurisdictional resources; or (b) six months after the issuance of this amended Certification. The financial assurance instrument(s) shall set forth written documentation that:

1. CHSRA has proper legal authority to spend an appropriate amount of mitigation funding necessary to implement and maintain the mitigation as required by the PRMP and this Certification.
2. CHSRA has approved the expenditure of that amount of mitigation funding necessary for implementing and maintain the mitigation required by the PRMP and this Certification.
3. CHSRA has entered into a covenant or is otherwise obligated to spend that amount of mitigation funding necessary for implementing and maintaining the mitigation required by the PRMP and this Certification. At the election of the State Water Board, prior to submission of the financial assurance instrument(s) to the State Water Board for review, the State Water Board may specify that the document creating CHSRA's covenant or obligation shall include a provision that names the State Water Board as a third party beneficiary entitled to act, in the sole discretion of the State Water Board, to enforce CHSRA's covenant or obligation to expend the mitigation funding necessary for implementing and maintaining the mitigation required by the PRMP and this Certification.
4. The term and contingency measures of the financial assurance instrument(s) shall be sufficient to assure that the financial assurances shall not expire prior to completion of the mitigation and satisfaction of mitigation performance standards pursuant to the PRMP and this Certification.

Long-Term Management Financial Assurances.

To reasonably assure long-term management and protection of the compensatory mitigation areas conserved in perpetuity by a dedicated conservation easement pursuant to the PRMP and this Certification, CHSRA shall provide the following documentation to the State Water Board for approval as soon as possible, but no later than one year (12 months) the earlier of: (a) impacts to jurisdictional resources; or (b) six months after the issuance of this amended Certification:

1. A Property Analysis Record ("PAR") that determines an appropriate endowment value for purposes of funding long-term management and protection of the compensatory mitigation sites in perpetuity as required by the PRMP; and
2. Appropriate financial assurance instrument(s), which shall set forth written documentation that CHSRA has provided endowment or future annuity principle sufficient to fund the long-term management of the compensatory mitigation sites satisfying the following conditions:

- a. The endowment shall provide the sum determined pursuant to the PAR to be sufficient to fund long term management and protection of the compensatory mitigation sites;
- b. The endowment shall be provided by CHSRA to an entity qualified to receive the endowment under California Government Code Section 65968; and
- c. The endowment holder shall be obligated to hold, manage and expend the endowment in perpetuity for long term management and protection of the compensatory mitigation sites as specified in the PRMP.