



Tri-Valley  San Joaquin Valley  
**REGIONAL RAIL AUTHORITY**

**Board of Directors Meeting**

**December 14, 2022**

**Correspondence**

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December 11, 2022

Honorable Veronica Vargas, Chair  
Tri-Valley-San Joaquin Valley Regional Rail Authority

VIA E-MAIL ONLY TO: [comments@valleylinkrail.com](mailto:comments@valleylinkrail.com)

**Re: Item 6, December 14, 2022 Board Meeting Agenda  
Hydrogen Production Facility Advancement**

Dear Chair Vargas:

This office is writing on behalf of TRANSDEF, the Transportation Solutions Defense and Education Fund, to inform your Board that action on Item 6 on your upcoming Board agenda is very premature and inconsistent with legal standards, for the following reasons:

1. One of CEQA's bedrock principles is that environmental review must precede project approval. The California Supreme Court has held, "[B]efore conducting CEQA review, agencies must not 'take any action' that significantly furthers a project 'in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.'" (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 138.) The FEIR certified in May 2021 did not clear a hydrogen future for Valley Link. See DEIR pp. 2-21–2-24. As indicated in the SDEIR Notice of Preparation, environmental review will include the choice of motive power. Last week's scoping sessions made it clear that no decision has been made on fleet motive power. Presentation slide no. 27 stated, "Zero emission rail vehicles will be evaluated as part of the Proposed Project including hydrogen propulsion technology." Therefore, the SDEIR will evaluate motive power alternatives, including hydrogen.
2. There are very serious safety considerations in the use of hydrogen (e.g., production and transportation) that must be fully studied and potentially mitigated in the upcoming environmental review.
3. Your Authority has a legislative mandate in P.U.C. § 132652 to plan, develop, deliver and operate "cost-effective and responsive transit connectivity." Adrian Brandt has provided your Board with news of a German study that concluded the total cost of ownership over the lifecycle was lower for battery-electric drives than hydrogen fuel cell powered drives. Proceeding with Item 6 at your December 14, 2022 meeting would cost your agency far more than the battery-electric alternative. <https://www.hydrogeninsight.com/transport/will-no-longer-be-considered-hydrogen-trains-up-to-80-more-expensive-than-electric-options-german-state-finds/2-1-1338438>  
Moreover, cost-effectiveness of hydrogen production directly by the Authority must be weighed against purchase of hydrogen on the open market.

As a result of these factors, I conclude there is no legal basis for the Board to proceed with action on Item 6 on Wednesday.

TRANSDEF thanks you for considering these comments.

Sincerely yours,  
*/s/ Jason A. Bezis*  
JASON A. BEZIS  
Counsel for TRANSDEF