

Serving Alameda, Contra Costa, Marin and San Francisco counties



9 September 2020

Honorable Joe Wallace, President, and Members, Board of Directors
AC Transit
1600 Franklin Street
Oakland CA 94612

via email

Re: Agenda Item #7.C. – Consider providing direction to the District’s representative on the Alameda County Transportation Commission (ACTC) regarding the ACTC vote on an amendment to Measure BB, which would replace the BART-to-Livermore extension project with Valley Link as the recipient of \$400 million in Measure BB funds.

Dear President Wallace and Board Members:

The Sierra Club appreciates AC Transit’s continuing support for environmentally-sustainable transportation planning and funding in Alameda and Contra Costa counties. We further commend the letter dated July 9, 22 sent to ACTC by General Manager Hursh, but urge even more courageous action by your Board in responding to the proposed ACTC actions this month.

The Sierra Club’s attempt to raise questions and concerns regarding the proposed ACTC actions on behalf of Valley Link are included in the attached letter dated May 11, 2020.

For those who have had the fortitude to read through the extensive memo prepared for ACTC’s September 14th meeting of their Planning, Policy and Legislation Committee (PPLC, chaired by Director Ortiz), we hope you have noted that despite 66 pages of comments (with a few blank sheets) and 37 pages of proposed staff responses, NO substantive changes to the original request from Valley Link are being considered. Such a tone-deaf response to community input unfortunately calls into question the appropriateness of the agency regarding their responsibilities to residents and taxpayers throughout Alameda County. Hopefully AC Transit can help guide the way to rectify the situation.

Two points are especially noteworthy, in this strange literally-dark day:

- ACTC staff's "Sales Tax Revenue Update" for recently concluded FY 2019-2020 is on the Agenda for their Finance and Administration Committee (FAC), scheduled for earlier the same day as PPLC. The report states that sales tax impacts from the COVID-19 shelter-in-place and changes in consumer behavior have been minimal, due to "the conservative manner in which Alameda CTC budgets." Although only a slight decrease from budget is anticipated for overall FY-2019-2020, projections for the future seem to anticipate a rather-questionable increase from budget for FY2020-2021, and no identification of future revenues, despite a Sierra Club request for five-year projections. Further, the FAC report is not even mentioned in the Response to Comments summary!
- AC Transit should pay special attention to Comment #73, raised by the Sierra Club, regarding any potential impact on operating/DLD funds to established transit operators from the Valley Link actions. The ACTC staff response appears to confirm that the current amendment does not include any request for Measure BB operating/DLD funds, and that any such "redistribution" would require a "separate amendment which has not been requested." AC Transit should be alert to any such possibility in the future.

Given the continuing, and unfortunate, refusal by ACTC staff to propose any changes to the requests by Valley Link to amend the Transportation Expenditure Plan (TEP) for 2014 Measure BB, the Sierra Club respectfully requests that Director Ortiz, in her role as Commissioner Ortiz, be directed to vote "NO" for the proposed ACTC Agenda item, both at PPLC and at the full Commission. We thank you all in advance, especially Director Ortiz, for such a courageous action on behalf of Alameda County residents, taxpayers, and transit passengers.

I am attaching the Sierra Club's May 11, 2020 letter to ACTC for your consideration. If you have any questions regarding this matter, please do not hesitate to contact me at mwillia@mac.com .

Sincerely,



Matt Williams, Chair
Transportation and Compact Growth Committee
San Francisco Bay Chapter

cc: Chapter Director Berbeco
Chapter Executive Committee Chair Bolotina
Chapter Tri Valley Group
Mother Lode Chapter



Serving Alameda, Contra Costa, Marin and San Francisco counties

May 11, 2020

Via email to: vlee@alamedactc.org

Hon. Elsa Ortiz, Chair, and Members of the Planning, Policy and Legislation (PP&L) Committee
Alameda County Transportation Commission (ACTC)
1111 Broadway, Suite 800
Oakland, CA 94607

RE: PP&L Agenda item #5.1 – Approve Tri-Valley- San Joaquin Valley Regional Rail Authority (TVSJVRRA, aka Valley Link) Request for a 2014 Measure BB Transportation Plan Expenditure (TEP) Amendment

Dear Chair Ortiz and Members of the PP&L Committee:

On behalf of our more than 13,500 members in Alameda County, the Sierra Club writes to respectfully express great concern about Item #5.1 on your Agenda for Monday May 11, 2020. We believe that there are far too many issues and questions that should be addressed before the recommended actions move forward.

We recognize that the proposed actions before your Committee are just the beginning of a process to reprogram the sales tax funds that were approved by voters for “BART to Livermore.” But as set forth in the staff memo, the proposed actions, and their timing, would establish dangerous precedents for lack of planning and financial responsibility. There is simply no need to rush into the proposed actions, particularly in the context of the current health and financial crises being faced by the State and local communities. Why not first take time for responsible analysis and an opportunity to see if-how-and-when recovery is able to occur, before committing funds that may not materialize for years to come?

Every responsible forecast is anticipating that “the future of work” will be different, post-pandemic, than we have ever been experiencing previously. Why base such a massive investment of public funds on what is already and at best “old data?”

The first Agenda request is that the TVSJVRRA be acknowledged as a new agency in Alameda County that can be an eligible recipient of Measure BB funds. While this

2

should be the least controversial element of the requests, nothing in the staff memo identifies the potential magnitude of impacts on other Measure BB transit recipients. There is no operating budget provided in the Committee materials. Can taxpayers and pre-pandemic passengers be assured that this new system will not become a drain on other, voter-approved transit agencies in the County?

The second and third requests would remove “BART to Livermore” from the TEP and substitute Valley Link with no consideration of possible alternatives – why? The project list for Measure BB was the result of years of input and deliberation by Community and Technical Working Groups. Why not have a full and fair competition for alternative uses of these funds, throughout the full list of “BART, Bus, Senior, and Youth Transit” options identified as the relevant “Type” on page 3 of the TEP (page 24 of the Committee packet), especially with the enormous uncertainties facing projections for both traffic and funding revenues?

Implementing Guideline 22 of the Measure BB TEP is surprisingly omitted from the staff memo, but supports this broadened approach, stating:

22. Fund Allocations: Should a planned project become undeliverable, infeasible, or unfundable due to circumstances unforeseen at the time this Plan was created, or should a project not require all funds programmed for that project or have excess funding, funding for that project will be allocated to another project or program of the same type, such as Transit, Streets, Highways, Community Development Investments, or Bicycle and Pedestrian Safety, at the discretion of Alameda CTC.

Even the language from AB 758 (Eggman/Baker, PUC section 132658) that is quoted in the “superseded” request dated September 11, 2019, recognized that there was no entitlement to the “local funds controlled by the Alameda County Transportation Commission.”

It should also be noted that the proposed description and conditions regarding Valley Link delete and/or change significant descriptive and cautionary language (which was carefully negotiated and voter-approved) before funds may actually be “used.” The text below sets forth full “before and after” language in a single view for the information of Commissioners and the public:

~~BART to Livermore (\$400 M)~~
Valley Link rail in Alameda County (\$400 M)

~~This project funds the first phase of a BART Extension within the I-580 Corridor freeway alignment to the vicinity of the I-580/Isabel Avenue interchange~~ Valley Link rail extension from the existing Dublin/Pleasanton BART station within the Tri-Valley and Altamont Pass in Alameda County using the most effective and efficient technology.

Funds are for construction for any element of this first phase project and shall not be used until full funding commitments are identified and approved for the initial operating segment that most effectively meets the adopted project goals, and a project-specific environmental clearance is obtained. The project-specific environmental process will include an ~~detailed~~ alternative assessment of ~~a~~ fundable and feasible alternatives, and be consistent with mandates, policies and guidance of federal, state, and regional agencies that have jurisdiction over the environmental and project development process.

Why are voter and environmental protections proposed to be removed for this new project? Do Commissioners really think this is wise and appropriate? Why not, at a minimum, wait until the requisite Environmental Review is both released in draft form and then completed? – This critical document is already a year behind the previous schedule.

Where is the San Joaquin County commitment to support their own residents who are likely to be the primary beneficiaries of this project? The proposed resolution merely states that:

SJCOG: In April 2020, the SJCOG Board approved an amendment to its 2018 Regional Transportation Plan to include the Valley Link project, including identification of \$163.9 million for the project in the plan from *future* measures and state funds. **(emphasis added)**

Any ACTC action should be conditioned on a firm commitment of adequate funds for both capital and operations for this multi-county project. “Leveraging” of other funds should, at a minimum, be based on full and fair participation from designated “partners.”

Several places in the proposed “amendments” describe Valley link as “Commuter Rail,” despite the fact that it is proposed to operate throughout the day. Subsection 49 CFR 37.3 in relevant part defines “commuter rail” as

Commuter rail transportation means short-haul rail passenger service operating in metropolitan and suburban areas, whether within or across the geographical boundaries of a state, usually characterized by reduced fare, multiple ride, and commutation tickets and by morning and evening peak period operations. This term does not include light or rapid rail transportation.

Is this an attempt to obviate or avoid an obligation for ADA complementary paratransit service for passengers, or attempted passengers, who may have difficulty using the train service?

4

We must also ask if ACTC or Valley Link have informed MTC and ABAG that the proposed project will facilitate inter-regional commuting, contrary to the intent of SB 375 and the Bay Area's Sustainable Communities Strategy.

This message sets forth only some of the most obvious concerns about the proposed Measure BB actions. There are certain to be more, but disclosure by ACTC and Valley Link should not be delayed until the end of the requisite "public comment" period. The Sierra Club respectfully requests, and urges at a minimum, that the questions and issues noted above be addressed before any Commission action to consider Valley Link's requests. To do any less would call into question Commissioners' significant public service obligations to Alameda County voters, taxpayers, and residents. We look forward to working with you and ACTC staff to consider a full range of responsible uses of Measure BB funds. If you have any questions, or desire further information, please do not hesitate to contact Matt Williams at mwillia@mac.com.

Sincerely,

ss/

Matt Williams

Chair, Chapter Transportation and Compact Growth Committee

ss/

Dick Schneider

Chair, Chapter Tri-Valley Group Executive Committee

ss/

Eric Parfrey

Volunteer Leader, Mother Lode Chapter

Cc: Sierra Club California Director Phillips
San Francisco Bay Chapter Executive Committee Chair Bolotina
San Francisco Bay Chapter Director Berbeco