Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: November 3-4, 2010

Reference No.: 4.4
Action

From: BIMLA G. RHINEHART
Executive Director

Subject: **NORTH COAST RAILROAD AUTHORITY (NCRA) REQUEST TO RESTRUCTURE PROPOSITION 116 AUDIT EXCEPTION REPAYMENT PLAN**

ISSUE:

Should the Commission approve the North Coast Railroad Authority (NCRA) request to restructure the Proposition 116 Audit Exception Repayment Plan?

RECOMMENDATION:

Staff recommends that the Commission not approve the proposed restructure of the repayment plan and further recommends that the Commission request the NCRA to make immediate payment of the overdue balance of $128,886.

BACKGROUND:

Proposition 116 enacted the Clean Air and Transportation Improvement Act of 1990, designating $1.99 billion for specific projects, purposes, and geographic jurisdictions, primarily for passenger rail capital projects.

Of this amount, Proposition 116 authorized $1.852 billion for the preservation, acquisition, construction, or improvement of rail rights-of-way, rail terminals and stations, rolling stock acquisition, grade separations, rail maintenance facilities, and other capital expenditures for rail purposes; $73 million for 28 nonurban counties without rail projects, apportioned on a per capita basis, for the purchase of paratransit vehicles and other capital facilities for public transportation; $20 million for a competitive bicycle program for capital outlay for bicycle improvement projects that improve safety and convenience for bicycle commuters; another $30 million to a water-borne ferry program ($20 million competitive and $10 million to the City of Vallejo) for the construction, improvement, acquisition, and other capital expenditures associated with water-borne ferry operations for the transportation of passengers or vehicles, or both.

Proposition 116, under Public Utilities Code (PUC) sections 99625 and 99626, authorized $10 million to the North Coast Railroad Authority (NCRA) for improvement of rail service in Humboldt and Mendocino Counties. In 2001, of the nearly $9.93 million allocated by the Commission, $164,886 were questioned and disallowed by an audit finding.

The NCRA did not contest the Proposition 116 audit exception, has repaid $36,000 out of the original $164,886 disallowance, and has an overdue balance of $128,886 under the terms of the original repayment plan, adopted by the NCRA Board of Directors on August 18, 2004 (attached) and subsequently approved by the Commission at its September 2004 meeting.

The NCRA is requesting restructuring of the repayment plan and offers two options to satisfy the outstanding repayment obligation. Both options include an initial lump sum payment of $48,000, which would leave an $80,886 outstanding obligation. Under Option 1, there would be six future payments at $12,000 per year with a final payment of $8,886 in FY 2016-17.

Under Option 2, the NCRA proposes that the Commission apply the $72,284 balance available for allocation under PUC sections 99625 and 99626 as a credit against most of the $80,886 outstanding obligation. NCRA also asks that the remaining $8,602 balance be forgiven.

Attachment

RESOLUTION

of the

BOARD OF DIRECTORS

of

NORTH COAST RAILROAD AUTHORITY

IN THE MATTER OF: A Resolution Approving Proposition 116 Audit Exceptions.	Resolution No. 2004-06

WHEREAS, the California Transportation Commission ("CTC") asserted in 2001 that [illegible] in Proposition 116 Rail Bond Funds granted to NORTH COAST RAILROAD AUTHORITY ("NCRA") were questioned and disallowed by the CTC;

WHEREAS, NCRA did not contest the assessment of the Audit disallowance, thereby incurring a repayment obligation (the "Repayment Obligation");

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE

1. NCRA shall make payment to the CTC on the Repayment Obligation as follows:
   a. $12,000 in FY 04-05;
   b. $12,000 in FY 05-06;
   c. $12,000 in FY 06-07;
   d. $42,962 in FY 07-08;
   e. $42,962 in FY 08-09;
   f. $42,962 in FY 09-10;
   g. NCRA will make payments in the fourth quarter of each Fiscal Year until sufficient cash-flow is available to make first quarter payments in each Fiscal Year as requested by the CTC.
2. In the event that HR3550 passes in its present form and NCRA's Q-Fund loan obligation is forgiven, NCRA shall cause $90,000 of its unrestricted funds from the

Cloverdale Bypass Project on deposit in the Q-Fund Account to be applied to the Repayment Obligation, whereupon the Repayment Plan would be reduced as follows:

a. $12,000 in FY 04-05;

b. $12,000 in FY 05-06;

c. $12,000 in FY 06-07;

d. $12,962 in FY 07-08

e. $12,962 in FY 08-09

f. $12,962 in FY 09-10;

g. NCRA will make payments in the fourth quarter of each Fiscal Year until sufficient cash-flow is available to make first quarter payments in each Fiscal Year as requested by the CTC.

Introduced and adopted this 18th day of August, 2004 at a regular meeting of the Board of Directors of North Coast Railroad Authority at Fortuna, California by the following vote:

AYES: Ripple, Hemphill, Ellinger, Simonson

NOES: None

ABSENT: None

John Woolley

JOHN WOOLLEY
Chairman of the Board

ATTEST:

Mitch Stogner

MITCH STOGNER, Secretary

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