

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: January 19-20, 2011

Reference No.: 4.4  
Action

From: BIMLA G. RHINEHART  
Executive Director

Subject: **UPDATE ON CONDITIONS OF APPROVAL -- RESOLUTION PA-10-06**  
**ACQUISITION OF THE SANTA CRUZ BRANCH LINE PROJECT**

## **ISSUE:**

The Santa Cruz County Regional Transportation Commission (RTC) has not met one of the five conditions of approval stipulated in Resolution PA-10-06 for the Santa Cruz Branch Line project.

## **RECOMMENDATION:**

Staff recommends that the Commission deny approval of the RTC's Proposition 116 application.

At the November 3-4, 2010 meeting, Commission staff requested that the Commission postpone approval of the application to allow the RTC adequate time to provide additional information or updates to satisfy the remaining condition, Condition 2, as stipulated in Resolution PA-10-06.

On November 30, 2010, Commission staff hosted a meeting between the RTC's right of way appraisal reviewer and the Department's rail right of way reviewer, who acts on behalf of the Commission, as an opportunity for the RTC consultant to clarify points in his review report, to provide additional information or updates to satisfy the remaining condition, Condition 2.

However, no progress was made at the meeting, and staff has not received any new information to explain how the Net Liquidation Valuation (NLV) of the branch line supports the amount of Proposition 116 and STIP funds requested, which would satisfy Condition 2.

Although the staff recommendation is made in accordance with Proposition 116 requirements, staff would note that as of July 1, 2010, the statute provides the following options for the RTC:

- **Reallocation by Legislature** - PUC Section 99684.(d), the Legislature may, by statute passed in each house by majority vote, or in the annual Budget Bill, require the Commission to award any grant specified in Chapter 3 (commencing with Section 99620) which the commission has denied. This includes any unexpended amounts available under PUC Section 99640.
- **Governor's Option** - PUC Section 99685. If, within one year after the commission has denied any grant specified in Chapter 3 (commencing with Section 99620), the Legislature does not require the commission to award the grant pursuant to Section 99864, the Governor may direct the commission to award the grant if the Governor finds that the applicant for the grant is in substantial compliance with the requirements of this part.

**BACKGROUND:**

PUC Section 99640 authorizes \$11,000,000 in Proposition 116 Bond funds to the RTC for (a) intercity passenger rail projects connecting the City of Santa Cruz with the Watsonville Junction, or (b) other rail projects within Santa Cruz County which facilitate recreational, commuter, intercity and intercounty travel.

The RTC is pursuing the acquisition of the Santa Cruz Branch Line which extends 31.8 miles from Pajaro in Monterey County to Davenport in north Santa Cruz County for the purpose of preserving the rail corridor for future multi-modal uses. The purchase includes the rights-of-way, track, signal system, yard facilities, structures (including bridges), and all appurtenant facilities.

The total estimated project cost of \$23,568,628 for pre-construction costs, right-of-way acquisition and improvements includes \$11,000,000 Proposition 116; \$10,000,000 STIP; \$1,490,250 in a Federal FY 2002-03 earmark; \$971,300 Transportation Development Act; \$77,460 previously allocated STIP (1998); and \$29,618 from Union Pacific.

In August 2003, the Commission approved an application (PA-03-05) from the RTC for the Santa Cruz Branch Line Acquisition programming \$300,000 for pre-acquisition activities.

In May 2008, the Commission approved an amended application (PA-08-01) for another \$500,000 in Proposition 116 funds for additional pre-acquisition activities to complete the negotiations with Union Pacific, appraisals, title review, inspection of the property, assessment of hazardous materials, and other pre-acquisition activities as necessary to complete the purchase of the right-of-way.

In April 2010, the Commission received an amended application to program \$10,200,000, the Proposition 116 funds remaining under PUC Section 99640, for acquisition of the Branch Line.

The RTC amended application also requested a waiver of the Proposition 116 rail program policy and application guidelines (Resolution # G-90-23) to allow the Proposition 116 funds to be matched with other State funds.

At its June 30-July 1, 2010 meeting, the Commission granted conditional approval for an amended Proposition 116 application from the Santa Cruz County Regional Transportation Commission to program \$10,200,000 for acquisition of the Santa Cruz Branch Line.

The Commission's approval was subject to the RTC meeting the five conditions listed below by the August 11-12, 2010 Commission meeting. At the August 2010 meeting, the Commission granted the RTC until the November 3-4, 2010 meeting to provide additional information or updates to satisfy the two remaining conditions, Conditions 1 and 2. The five conditions are, as stipulated in Resolution PA-10-06:

- 1) RTC will provide the Commission a copy of the executed Administration, Coordination and License Agreement between RTC and the operator (Sierra Northern Railway);
- 2) RTC will explain the use of Net Liquidation Value (NLV) as the methodology for the appraisal valuation to support the request for \$10,200,000 in Proposition 116 funds plus \$4,000,000 in STIP funds to acquire the rail right-of-way;
- 3) RTC commits, via a board resolution, to be responsible for initiating recreational passenger rail service, in accordance with PUC Section 99640;

- 4) RTC commits, via a board resolution, to be responsible for continuing freight rail service for as long as would be required by the Surface Transportation Board, as provided in 49 USC sections 10901, 10910 and 11347; and
- 5) RTC commits, via a board resolution, to be responsible for hazardous waste clean-up and not seek State transportation funds for any clean-up costs and to indemnify the State from both present and future hazardous waste clean-up liabilities.

Attachment

CALIFORNIA TRANSPORTATION COMMISSION

Project Application Amendment Approval  
Proposition 116 Rail Program Application for the  
Santa Cruz County Regional Transportation Commission  
Santa Cruz Branch Line Acquisition

Resolution PA-10-06, Amending Resolution PA-08-01

- 1.1 WHEREAS, in June 1990 the voters approved the Clean Air and Transportation Improvement Act, Proposition 116, for \$1.99 billion for rail and mass transportation purposes; and
- 1.2 WHEREAS, the California Transportation Commission is designated in Proposition 116 to oversee the five grant programs over the 20-year term of the Proposition; and
- 1.3 WHEREAS, Proposition 116 calls for the Commission to establish an application process and to develop and adopt guidelines to implement those programs; and
- 1.4 WHEREAS, Proposition 116 establishes as a purpose of the application process that it "facilitate implementation of improved cost-effective transit service to the maximum number of Californians and to prevent the funds provided for by this part from being spent on needlessly costly features"; and
- 1.5 WHEREAS, Proposition 116 requires applications to specify full and complete capital plans, financial plans, and operating plans, including schedules and funding sources; and
- 1.6 WHEREAS, in December 1990 the Commission adopted policy and application guidelines (#G-90-23) for the Proposition 116 rail program; and
- 1.7 WHEREAS, the Commission has established a Hazardous Waste Identification and Clean-up Policy (#G-91-2) that requires the local agency to have performed full due diligence in identifying the hazardous waste in the right-of-way and easements and properties as well as clean-up, and that the state has been indemnified from clean-up liability of damages, both present and future; and
- 1.8 WHEREAS, Proposition 116 (PUC Section 99640) authorizes \$11,000,000 to the Santa Cruz County Regional Transportation Commission (SCCRTC), for the following:
  - (a) intercity passenger rail projects connecting the City of Santa Cruz with the Watsonville Junction; or
  - (b) other rail projects within Santa Cruz County which facilitate recreational, commuter, intercity and intercounty travel; and

- 1.9 WHEREAS, Proposition 116 specifies that local agencies shall not adopt new or increased development taxes, fees, or exactions or permit fees to pay the local match or for operating costs of new service established with funds provided pursuant to PUC Section 99640; and
  - 1.10 WHEREAS, in August 2003, the Commission approved PA-03-05 for the SCCRTC for the Santa Cruz Branch Line Acquisition project totaling \$300,000 in Proposition 116 Rail Program funds for pre-acquisition activities leading to the purchase of the right of way; and
  - 1.11 WHEREAS, in May 2008, the Commission approved an amended application (PA-08-01) for an additional \$500,000 for new pre-acquisition activities to complete the negotiations with Union Pacific, appraisals, title review, inspection of the property, assessment of hazardous materials, and other pre-acquisition activities as may be necessary to complete the purchase of the right-of-way; and
  - 1.12 WHEREAS, Resolution PA-08-01 also approved a waiver of the Commission's policy to limit use of Proposition 116 to 5% for pre-acquisition activities. The waiver allowed SCCRTC to use 7.3% of the \$11,000,000 of Proposition 116 funds for pre-acquisition costs; and
  - 1.13 WHEREAS, in April 2010, the Commission received an amended application to program the remaining \$10,200,000 of Proposition 116 funds under PUC Section 99640 for acquisition of the Santa Cruz Branch Line; and
  - 1.14 WHEREAS, PUC Section 99665(a) requires applicants for grants pursuant to PUC Section 99640 subdivision (b), to match on a dollar-for-dollar basis, the amount of the grant from other public or private sources, and to demonstrate to the satisfaction of the Commission, the availability of those other funds; and
  - 1.15 WHEREAS, the SCCRTC proposes to match the \$10,200,000 of Proposition 116 funds mostly with \$10,000,000 STIP. Thus, the April 2010 amended application also requested a waiver of Policy # 9 of the Proposition 116 rail program policy and application guidelines (#G-90-23) to allow the Proposition 116 funds to be matched with other State funds; and
  - 1.16 WHEREAS, the amended application, including all supplemental information, has been reviewed by Commission staff, and appears to meet all the requirements as specified in Proposition 116 and the Commission's policies and guidelines.
- 2.1 NOW, THEREFORE BE IT RESOLVED, that the Commission hereby approves the April 2010 Proposition 116 amended application from the SCCRTC to program \$10,200,000 available for acquisition of the Santa Cruz Branch Line with the following conditions:
- 1 ) SCCRTC will provide the Commission a copy of the executed Administration, Coordination and License Agreement between SCCRTC and the operator (Sierra Northern Railway);
  - 2 ) SCCRTC will explain the use of Net Liquidation Value (NLV) as the methodology for the appraisal valuation to support the request for \$10,200,000 in Proposition 116 funds plus \$4,000,000 in STIP funds to acquire the rail right-of-way;
  - 3 ) SCCRTC commits, via a board resolution, to be responsible for initiating recreational passenger rail service, in accordance with PUC Section 99640;

- 4) SCCRTC commits, via a board resolution, to be responsible for continuing freight rail service for as long as would be required by the Surface Transportation Board, as provided in 49 USC sections 10901, 10910 and 11347; and
  - 5) SCCRTC commits, via a board resolution, to be responsible for hazardous waste clean-up and not seek State transportation funds for any clean-up costs and to indemnify the State from both present and future hazardous waste clean-up liabilities.
- 2.2 BE IT FURTHER RESOLVED, that in the case where SCCRTC ceases to utilize the Branch Line for the original purpose as approved by the Commission, SCCRTC commits, via a board resolution, to reimburse the State, the greater of either the amount allocated or the then present fair market value as determined by STATE; and
  - 2.3 BE IT FURTHER RESOLVED, that the Commission may not allocate the \$10,200,000 of Proposition 116 funds or the \$4,000,000 of STIP funds until the conditions under paragraphs 2.1 and 2.2 are documented and provided to the Commission at least 45 days prior to a request for Commission allocation of funds; and
  - 2.4 BE IT FURTHER RESOLVED, that the Commission hereby waives its policy and application guidelines (#G-90-23) to allow the Proposition 116 funds to be matched with other State funds; and
  - 2.5 BE IT FURTHER RESOLVED, that Resolution PA-08-01 is hereby amended.

## Letters and Emails Received in Support

### Included in June 30, 2010 Staff Report

#### Letters

United Transportation Union  
Live Oak Neighbors  
Jesse Katz  
Davenport Roadhouse Restaurant & Inn  
Santa Cruz County Conference & Visitors Council  
O'Neill Wetsuits, LLC  
William J. Comfort III  
Downtown Association of Santa Cruz  
County of Santa Cruz Board of Supervisors  
City of Santa Cruz Redevelopment Agency  
Veronica Rodriguez  
Santa Cruz County Office of Education  
California Rail Foundation  
The Transit Coalition  
Train Riders Association of California  
Sierra Club Santa Cruz County Group  
Friends of Santa Cruz State Parks  
Peter Beckmann  
Weift Street Courtyard  
Santa Cruz Chamber of Commerce  
Pajaro Valley Transportation management Association  
Mayor of the City of Santa Cruz

Santa Cruz County Friends of the Rail Trail  
Barry Swewnsen Builder  
Santa Cruz Office of Education  
The Campaign for Sensible Transportation  
Think Local First  
David J. Terrazas  
Linda Wilshusen  
People Power  
Mayor City of Capitola  
Santa Cruz Bicycle Industry Coalition  
Ecology Action  
International Brotherhood of Electrical Workers  
Comstock, Thompson, Kontz & Brenner  
Karon Properties  
Association of Monterey Bay Area Governments  
Melanie Dominguez  
Marc Rosenblum  
Santa Cruz Beach Boardwalk  
Capitola Soquel  
Transportation Agency for Monterey County  
Community Traffic Safety Coalition

#### Emails

Henry G. Hooker  
L. D. Freitas  
Randa Solick  
Joel Wilson  
Chelsea George  
Karyn Bristol  
Mike and Courtney Welles  
Howard E. Sosbee  
Michael W. Keogh  
Ron Pomerantz  
Mary Millerm, BSN, RN  
Phil and Susie Kaplan

#### Letters

Sam Farr, Member of Congress  
Kendra Dorfán  
Assemblymember William W. Monning  
Senator S. Joseph Simitian  
Service Employees International Union

#### Emails

Salvatore Bertuca  
Charles Paulden  
John and Susan Beran  
Katharine P. Minott  
Steve Lustgarden & Susan Kauffman  
Tawn Kennedy  
Bill Malone

### Received Following Posting of June 30, 2010 Staff Report and Provided at Meeting

**Letters and Emails Received in Opposition**

**Included in June 30, 2010 Staff Report**

**Letters**

Edward J. Davison  
 Geoffrey Ellis  
 Robert Jones  
 Santa Cruz County Business Council

**Emails**

Dan and Ellen Nielsen  
 Ilse Rowe  
 Laverne Saltz  
 Barbara Breit  
 James E. Machado  
 Harold Widom  
 Raymond M. and Carla A. Leonard  
 Wayne Overbeck  
 Robert Tobey  
 Fay Levinson  
 Peggy Overbeck  
 S. Fulmer  
 Dorothy McLeod  
 Ann L. Butler  
 Tom French  
 Myron and Lois Overton  
 Bob Schmidt  
 Anton J. and Charlotte A. Gaidos

Nick Tovik  
 Dwight Lynn  
 Hal and Sue Zamora  
 Phillip J. Eilers  
 Richard L. Edgar  
 Don Heichel  
 Susan Schaaf  
 Anita Bernard  
 Andrew Armanino  
 Anita Whelan  
 Richard P. English  
 Margaret Parker  
 Mike Maggilo  
 David Braaksma  
 Darcy Horton  
 Robert Jones  
 Michael W. Keogh  
 Harvey Segall

Sylvia Previtali  
 David P. Rauen  
 Ann E. Rauen  
 Jerome & Majorie Earls  
 Thomas J. Pistole  
 T. J. & Barbara Fabiszewski  
 Mark Vanderwoude  
 Ramona Smith  
 Millard Phelps  
 Michael Abbott  
 Don Heichel  
 Peter Atkinson  
 Peter J. Haworth  
 Marlene Henderson  
 Sue Renner  
 Len Herkomer  
 William W. Delaney  
 Mike Marr

**Received Following Posting of June 30, 2010 Staff Report and Provided at Meeting**

**Letters**

Mary Lou Weidlich  
 Adury Twisselman  
 J. L. Murphy  
 Al & Lyudmila Herman  
 Reed Mike Archer  
 Oliver & Mary Warren  
 William Swinton  
 Jim Dixson & Patricia McGlynn  
 Geoffrey Ellis  
 John T. Shook  
 Mary Lou Weidlich  
 Carl & Denese Matthews  
 Joseph Ward  
 Jeff Locke  
 Catherine Elliott  
 Dennis & Regina Carney  
 Dennis Case

**Emails**

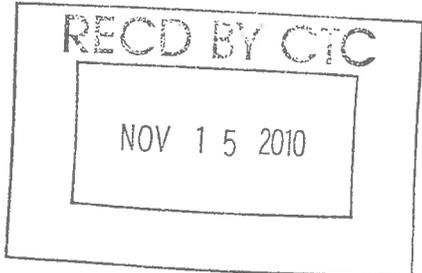
Doris Webb  
 Harriet L. Duzet  
 Mabel Woo  
 Caity Gerig  
 Helen Ackermann  
 Doris Barrawclough  
 Janet Beautz  
 Jim Murphy  
 R. Jesse McLaren

Gary Marietti  
 L. DeLucia  
 Mike Speviak  
 Joseph W. MacDonell  
 Helen Giblin  
 Joseph Ward  
 Steve Bankhead  
 Barbara Ellis  
 Barbara Sorensen  
 Daniel H. Dwyer  
 Marcia White  
 Peter Yaninek  
 Bill Selvidge  
 Charles H. Bruffey, MHA  
 Noelan Steed  
 Lorenzo Rota  
 Eric Rowland

Jennifer Shaw  
 Eugene Panelli  
 George Smiley  
 Mary & Bob Montonye  
 Libby Huyek  
 Michelle Spevy  
 Terence Leonard  
 David Marsh  
 Pat Mitchell Carrick  
 Rich Persoff  
 William J. Comfort III  
 Harold Raphael  
 R.T. Lohr & V.J. Miller  
 Ann Bornstein  
 Robert Vallerga  
 Vicki Hendin  
 Doree Steinmann

Walt & Jane Spichtig  
 CJ Wirth  
 Deborah Vanderwoude  
 Brian O' Connor  
 Al & Joan Stevens  
 Harry Mayo  
 Steve Bankhead  
 Joan Green Scibetta

~~REDA~~ J. Gruzman



491 Canon del Sol Drive  
La Selva Beach, CA 95076  
6 November 2010

California Transportation Commission  
1120 N Street, Room 2221 (MS-52)  
Sacramento, CA 95814

Subject: Santa Cruz County's Union Pacific Railroad Purchase

Dear Members of the Commission:

It has been reported that the California Transportation Commission is delaying their decision to grant funds for the purchase of the Union Pacific right-of-way in Santa Cruz County. We strongly encourage you to deny the granting of funds for this ill-advised purchase.

The Union Pacific railroad right-of-way line from Watsonville to Davenport is a single-track, worn-out, future money pit for California and Santa Cruz County citizens. The \$10 million dollar (\$20 million with interest) purchase price would be only a down payment on the long-term money-losing drain on the taxpayers of California. The railroad line was a money loser for Union Pacific even before the cement plant closed in Davenport, and the demand for railroad freight is very minimal. It will never be a "break-even" proposition or even come close.

The current freight train operates, infrequently, at 10 mph because the rail bed is unsafe to run railroad cars at any higher speed. The seventeen bridges and trestles on the 32-mile, one-track stretch are all over a century old and in very poor condition. Rebuilding these bridges and trestles to current earthquake and safety standards would run into tens of millions of dollars minimum.

The RTC's current practice of parking hazardous material tank cars near the coast is a very dangerous idea and could result in expensive hazmat and health problems.

The proposed dinner train from Santa Cruz to Davenport would be seasonal and generate \$1.00 per passenger revenue for the county. That would barely pay for one person to do the accounting.

The proposed hike/bike trail alongside the railway tracks is unrealistic and impractical. There is no space on the majority of the route to have an adjacent hike/bike pathway.

There is absolutely no public demand for passenger train transportation from Watsonville to Santa Cruz, and you cannot operate a regular passenger service with a one-track line.

The Santa Cruz County's RTC has no experience operating a railroad and has no staff created to do so. The County of Santa Cruz does not have any budgeted funds for a multi-million dollar office and staff to manage, operate, and maintain a passenger and/or freight railroad in Santa Cruz County.

The State of California, in an economy in which it has been forced to cut social services to needy citizens, education, and park facilities, should not use bond funds, which it does not currently have and would have to borrow, for a seasonal "dinner train" for tourists. Please deny the request of the Santa Cruz County RTC for this frivolous funding of an impractical scheme.

Very truly yours,



Oliver and Mary Warren

cc: Ellen Pirie, Santa Cruz County Supervisor



libonpv@aol.com  
11/04/2010 02:39 PM

To California\_Transportation\_Commission@dot.ca.gov  
cc  
bcc  
Subject Santa Cruz Rail purchase

Dear CTC Commissioners,

I have been following this Union Pacific rail right-of-way purchase for over a decade now and I urge you to shut this completely ludicrous idea down right now. I recently read that "the CTC has some concerns" and needs a little more time. I don't know what your concerns are, but let me remind you what my concerns are.

I have attended countless meetings at the SCCRTC and witnessed countless hours of a government entity's pursuit to purchase this rail corridor despite the obvious lack of a credible business plan for an operational passenger transit service. At one time these same SCCRTC officers wanted to run a Passenger train 6 miles from Capitola to Aptos (trolley folly, as some of us called it). Now they are desperately trying to justify another 6 mile trip, from Santa Cruz to Davenport. There is absolutely no business plan to support this ridiculous boondoggle of an idea. What does a government entity know about running a railroad??

Let me also add that the liability concerns alone should make this venture prohibitively expensive for us taxpayers. Already homeless wander the tracks and some injuries have already occurred. With a public entity with no railroad experience in charge of this line, it seems imminent that tragic accidents will happen on this line. Most of the rail crossings don't even work.

Let me conclude by saying that I would love to see this rail purchased by the local Recreation District for use solely as an incredible bike/pedestrian path. A global attraction like this would generate much needed revenue for our cash-strapped county. And believe me, when I went to the very first meeting to consider this purchase, everyone there unanimously approved a bike path. The idea of passenger service was very low on the priority list for most attendees there (and it was a packed audience too).

I sincerely hope you consider my opinion along with Bill Comfort, Robert Jones and others who have studied this issue for years.

Thank you for your time.

Libby Huyck  
2947 Pleasant Valley Road  
Aptos, CA 95003

my home is 2 miles away from the rail so no conflict of interest