

BEFORE THE SURFACE TRANSPORTATION BOARD

304725

North Coast Railroad Authority -)
Abandonment Exemption -) AB 1305X
in Humboldt, Trinity and Mendocino)
Counties, CA)

ENTERED
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**TRANSDEF REPLY TO NCRA/GRTA's MOTIONS AND
MULTIPLE PARTIES' COMMENTS IN SUPPORT THEREOF**

The Transportation Solutions Defense and Education Fund ("TRANSDEF") was the first party to file comments on the proposed abandonment. TRANSDEF and its sister organization, the Train Riders Association of California, have consistently opposed abandonment of NCRA trackage, out of the recognition of rail's energy efficiency and California's need for alternative modes of transportation.

While TRANSDEF has no objections to rails with trails—trails alongside the tracks—we draw the line at NCRA/GRTA's proposal for railbanking. We vehemently oppose the removing of tracks or the covering of them with dirt and gravel. California needs to keep its existing rails intact.

TRANSDEF respectfully offers the following Reply to NCRA/GRTA's recent Motions to Reject the Notices of Intent to File OFAs, served June 6, 2022. These comments also pertain to the recent filings of other parties in this proceeding in support of NCRA/GRTA's various motions.

A theme running through all of these comments is the conflation of the Notice of Intent to file an OFA with the OFA itself. The obvious anxiousness of these parties to defeat the OFAs has led them to jump the gun. For example, the Humboldt Baykeeper filing makes extensive claims as to the impossibility of a profitable rail line prior to the submission of the very business data required by the Board to make that determination. To make those claims without there being evidence before the Board is silly...

FOER's June 6 claim that "In this case, because the NCRA/GRTA line is likely to cost well in excess of \$2 billion to build, such a showing must demonstrate truly substantial actual assets" (page 4, emphasis added) bears no resemblance to the Board's requirements for Notices of Intent. Both NCRA/GRTA and FOER complained that NCRCo. did not show more than the required Financial Responsibility amounts. Asking for demonstration of the funding to rebuild the rail line is clearly not part of the Notice of Intent process. The demands are premature.

TRANSDEF is offended by NCRA/GRTA's claims (and FOER's parroting of same) of having defeated NCRCo's redaction of its financial statement. Their failure to present an exhibit documenting what they claim to have found negates any evidentiary value of the claim.

FOER's June 6, 2022 filing made the false claim that "The state and citizens of California have made substantial investments not only toward the creation of a Great Redwood Trail on the rail right of way from Willits north to Humboldt Bay, including many miles of trail already constructed on the NCRA right of way around Humboldt Bay, but also in the Sonoma-Marín Area Rapid Transit (SMART) commuter rail line, which operates on the southern end of the NCRA right of way." (page 3.) The trails mentioned were all built alongside the rails, as in rails with trails. The so-called substantial investments were made prior to the promotion of the Great Redwood Trail concept. The only funds actually invested in the Great Redwood Trail so far have been for a highly politicized superficial report to the Legislature.

It is unclear what the City of Eureka hoped to communicate by filing a copy of the Humboldt Baykeepers' letter as if it were its own letter.

NCRA/GRTA, FOER and the Humboldt Trails Council all claim the late filing prejudiced them because it prevented a meeting organized to object to the OFA from serving that purpose. While these parties were possibly inconvenienced, their filings did not meet the much higher burden of proof for demonstrating prejudice. Senator McGuire's decision to schedule his meeting on the day after the deadline is the immediate cause of their problem. This purported prejudice can be readily overcome by scheduling another meeting. (Note that none of the comments included a request for more time to enable a rescheduled meeting to be held.)

TRANSDEF notes the intense interest parties have expressed in the (we believe, selective) enforcement of deadlines. They didn't complain about the late filings by the California Coastal Commission, Rep. Huffman and others that were accepted by the Board. (see Board decision to deny motion for exemption, slip opn., page 9, served May 15, 2022.)

As FOER challenges the credibility of other parties in this proceeding, TRANSDEF offers this observation: We commented during the pendency of FOER v. NCRA, which reached the California Supreme Court, that the litigation was FOER's barely disguised attempt to kill NCRA. With NCRA now thoroughly dead, we note with bemusement FOER's 3 recent filings (at present count). They suggest a panicked awareness that FOER's grand strategy to protect the Eel River Canyon may have horribly backfired.

Finally, having had its abandonment application stalled for many months due to the vagaries of decades-old transactions, it is amusing to see NCRA/GRTA toss the Korbel bugbear to NCRCo. (page 6.) This is mere trivia and not a serious objection.

I certify that all parties to this proceeding, as of today, have been served this Reply.

Dated: June 8, 2022


David Schonbrunn, President