

BEFORE THE SURFACE TRANSPORTATION BOARD

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

TRANSDEF REPLY TO NCRA/GRTA'S AND OTHER PARTIES' COMMENTS ON THE CORRECTED EA

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 the 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 over with dirt and gravel. California needs to keep its existing rails intact.

TRANSDEF respectfully offers the following Reply to NCRA/GRTA's Comments on the Corrected Environmental Assessment, served June 6, 2022. These comments also pertain to the recent filings of other parties in this proceeding in support of these NCRA/GRTA comments.

A theme running through these comments is the conflation of the OFA process with the restoration of a rail line, possibly requiring construction authority from the Board. Counsel for FOER and Sierra Club stated "Here, given the status of the defunct and deteriorating rail line, any reopening of the rail line would flow directly from the STB's discretionary actions in approving an OFA." (p. 3.) No! This is blurred thinking. The reopening of a rail line would flow from a railroad's actions to rebuild that line. That is an entirely distinct process from an OFA.

NCRA/GRTA raises bogus legal points. The citation to 49 CFR Part 1105.6(b)(4) is misplaced. OFAs are legally distinct from acquisitions. That section does not apply to OFAs. OFAs are exempt from NEPA under 49 CFR Part 1105.5(c)(3), because the order to transfer is a ministerial act. While NCRA/GRTA, Sierra Club and FOER would rather have the Board follow their ideas for environmental rules, the Board was empowered by Congress to make these decisions. The Board should not look kindly upon obvious threats to challenge its regulations.

An order from the Board directing the NCRA/GRTA to sell the assets it had proposed to abandon to a successful Offeror is necessarily categorized as a federal action that has no impacts on the environment. The only changes are to paperwork. Therefore, the Corrected EA is correct in its finding that "Accordingly, OEA's environmental and historic review in this proceeding, as in all abandonment proceedings, is limited to the analysis of the potential diversion of rail traffic to other transportation modes and impacts from any salvage activities resulting from the proposed abandonment."

Speaking *arguendo*, would the NCRA/GRTA be willing to pay for an EIS? If not, who else would it expect to pay for a study of the property it owns?

As environmental practitioners, FOER is clearly skilled at writing scoping documents for environmental studies. What it apparently doesn't know is when such a rendition is out of place and entirely uncalled for.

NCRA/GRTA is flat-out wrong in its assertion that "In this proceeding, an OFA application is tantamount to an application for new construction." (NCRA/GRTA Comments, p. 6.) Construction is a legally distinguishable process that cannot occur until after a transfer of property has taken place. NCRA/GRTA, Sierra Club and FOER are premature in their comments and threats on this point.

I certify that all parties to this proceeding have been served these Comments.

Dated: June 8, 2022


David Schonbrunn, President