BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-1351X
ST. PAUL & PACIFIC RAILROAD COMPANY, LLC
– DISCONTINUANCE OF SERVICE EXEMPTION –
IN SANTA CRUZ COUNTY, CAL.

VERIFIED PETITION OF FRIENDS OF RAIL AND TRAIL TO REJECT NOTICE OF EXEMPTION OR, IN THE ALTERNATIVE, FOR STAY OF EFFECTIVENESS

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Dated: July 15, 2026

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Friends of the Rail and Trail ("FORT") respectfully petition the Surface Transportation Board (the "Board" or "STB") to reject the verified notice of exemption (the "Notice") based on procedural deficiencies and false and misleading information therein submitted by St. Paul & Pacific Railroad Company, LLC[1] ("SPPR") pursuant to 49 C.F.R. part 1152, subpart F to discontinue common carrier service over approximately 28.39 route miles of railroad (the "Line") in Santa Cruz County, California, extending from milepost 3.0 west of Watsonville Junction, California, to milepost 31.39 at the end of Line at Davenport, California.

As noted, SPRR submitted its Notice pursuant to 49 C.F.R. part 1152, subpart F on June 15, 2026, to permit it to discontinue common carrier service over the Line in Santa Cruz County, California. SPPR asserts that the reasons for the Notice are as follows: (1) no local traffic has moved over the Line for more than two years prior to the date of this Notice; (2) although the Line is stub ended and hosts no overhead traffic, any such overhead traffic – if it existed – could be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the Line regarding cessation of service is either pending with the Board or a U.S. District Court, nor

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[1] When SPPR obtained authority to operate on this rail line, Progressive Rail Incorporated ("PGR"), SPPR's corporate parent, concurrently filed a notice of exemption in FD 36208 pursuant to 49 C.F.R. § 1180.2(d)(2) to continue in control of SPPR once SPPR commenced operations and became a carrier. Hereinafter, SPPR and PGR will be referred to as SPPR.

has a complaint regarding any such service cessation been decided in favor of the complainant within the past two years. However, this reasoning set forth in the Notice does not provide the entire story about the circumstances surrounding this Line and the Santa Cruz County Regional Transportation Commission's ("RTC") role in this proceeding.

1. The Notice Is Not What It Seems but Is Part of an Overarching Plan by RTC to Remove the Track on the Line.

The RTC, the owner of the Line, is orchestrating a two-step strategy to create an interim trail without the well-established process of abandonment/railbanking. The first step in this plan is for SPPR to file for discontinuance herein at the explicit direction of the RTC. The second part is for the RTC to create a subsidiary that will seek authority to operate the Line as a common carrier without the intention of providing freight service upon reasonable request while the RTC builds an interim trail thereon which will involve removing portions of the existing rail.

With respect to the first step, the RTC is primarily responsible for planning and requesting the discontinuance. The RTC proposed and then entered into a Separation Agreement with SPPR in which (1) the RTC agreed to pay SPPR $450,000[2], (2) as a result, SPPR agreed to file for

[2] "[T]he Commission [RTC] agrees to provide non-refundable payments to SPPR totaling $450,000" Draft Separation agreement, RTC Agenda 4/2/2026 PDF page 259; chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.sccrtc.org/wp-content/uploads/2026/03/2026-04-02-agenda-packet.pdf

discontinuance [3], (3) the RTC retained the right to review and approve SPPR's filing[4], and (4) SPPR agreed to quitclaim its interest in the line to the RTC past MP3.0.[5]

With respect to the second step, the RTC wants to become the common carrier but does not actually intend to provide freight service. At the RTC meeting on March 19, 2026, the RTC explicitly authorized creation of a 501(c)(4) corporation to become a common carrier.[6] The RTC only plans to be a common carrier on the discontinued portion of the line.[7] The RTC was asked by an RTC commissioner what their plan was in case there was a request for freight service. The

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[3] "SPPR shall take and complete all reasonable actions necessary to file all STB regulatory filings and complete all publication requirements for discontinuance of the Remainder of the Freight Easement within twenty (20) business days of the Effective Date of this Separation and Release Agreement, and then diligently pursue discontinuance authority." Draft Separation agreement, RTC Agenda 4/2/2026 PDF page 258; chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.sccrtc.org/wp-content/uploads/2026/03/2026-04-02-agenda-packet.pdf

[4] "Before filing with the STB, SPPR shall provide the Commission's designated railway counsel with drafts of all STB filings and an opportunity to comment. SPPR shall incorporate any edits proposed by Commission's regulatory counsel into the filings with STB, provided such comments are consistent with the intent of the terms set forth in the Separation and Release Agreement." Draft Separation agreement, RTC Agenda 4/2/2026 PDF page 258; chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.sccrtc.org/wp-content/uploads/2026/03/2026-04-02-agenda-packet.pdf

[5] SPPR agrees to quitclaim all its right, title, and interest in and to the Remainder of the Freight Easement to either the Commission or the SCCCR, whichever is designated by the Commission, within ten (10) business days of advance formal request for such conveyance. – Draft Separation agreement, RTC Agenda 4/2/2026 PDF page 257; chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.sccrtc.org/wp-content/uploads/2026/03/2026-04-02-agenda-packet.pdf

[6] "Form a 501(c)(4) social welfare non-profit corporation as a subsidiary entity to the RTC to provide rail services and serve as the designated operating or non-operating common carrier for all or most of the Santa Cruz Branch Rail Line" RTC Agenda 3/19/2026 PDF page 6; chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.sccrtc.org/wp-content/uploads/2026/03/2026-03-16-Special-RTC-Agenda-Packet.pdf

[7] "[T]hen RTC through the subsidiary would be the non-operating common carrier north of mile post 3 which would mean that it would have all of the responsibilities that would associate with that on the assumption that the line is in discontinued status." – Staff report by RTC on 3/19/2026. From transcript RTC_Transcript_20260321.doc,; attached as Exhibit A.

response by RTC was that freight service should be discontinued and that it would not be able to provide service.[8]

The RTC did adopt an Administration, Coordinating, and Licensing Agreement ("ACL") with its subsidiary, SCCRR, to provide freight service on the Line. The ACL explicitly included language allowing interference with freight service,[9] including the grant of an exemption for purposes other than providing freight service.[10]

Therefore, this Notice and the anticipated filing to operate on the Line by the RTC subsidiary together are part of a coordinated strategy to remove tracks and build a trail on the

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[8] RTC Commissioner Hurst: "what's the plan for how a new entity might meet a common carrier obligation to deliver freight if there is a request in the future for the nonoperational part? Yeah."

RTC Counsel Steve Mattas: "So that so any common carrier whether that's Progressive right now or RTC is the nonoperating common area if there were a request for service assuming the line is not discontinued. If the line is discontinued a service request would not be honored. If there was if the line was not discontinued, a service request could come in. But if RTC could not provide that as the common carrier, they would have to notify whoever the shipper is that they can't provide that service.

Part of the issue that exists right now is the line north and mile post 3 with limited exceptions in the city of Santa Cruz where Roaring Camp operates is really effectively out of service already.and the current common carrier uh probably should have noted that in the freight records. So, as the commission will require, there's a designation called an OPSL which tells shippers that a line is out of service and that has not been done by the current carrier. If the line is discontinued, we don't have to do that because the discontinuance is in the official shipping records administered by the STB." Staff report by RTC on 3/19/2026. From transcript RTC_Transcript_20260321.doc (Exhibit A).

[9] "The Commission's activities may temporarily interfere with Railway's ability to perform future Freight Service" Proposed ACL – RTC Agenda 7th May, 2026, PDF Page281; chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.sccrtc.org/wp-content/uploads/2026/04/2026-05-07-Agenda-packet.pdf

[10] "The facts here support the conclusion that TLC never had any intention of reinstituting rail service on the line. It appears, rather, that TLC has put into effect a plan to convert the line to trail use as soon as possible following its acquisition of the line. This constitutes a misuse of our procedures, which envision that a party that acquires an active rail line does so to continue to provide rail service. Manifestly, TLC never had any such intent. To protect the integrity of our processes, we will revoke the exemption" *The Land Conservancy of Seattle and King County—Aquis. and Operation Exemption- The Burlington and Northern Railway Company,*-FD 33389, slip op. at 3 (STB served Sept. 23, 1997)

Line while bypassing the established STB abandonment/railbanking process.[11] The RTC staff initially stated that the only path to an interim trail was by railbanking.[12] Certain RTC commissioners publicly announced plans to bypass the railbanking process and build the interim trail without seeking abandonment authority and using the appropriate railbanking process.[13] The RTC commission passed a resolution directing staff to finalize design for an interim trail and to implement it without going through said railbanking process.[14] Consequently, the RTC-planned trail now will remove the rail on the Line and put the trail in its place.[15] The interim trail planned by RTC will have at least a 20-year lifespan as required by the terms of the grant being used to

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[11] This path is presumably because an abandonment of the Line would cause a stranded segment that connects to the Line in Santa Cruz, Cal., which would run afoul of STB precedent

[12] "If the RTC desires to use the corridor for uses other than freight, the RTC could: (1) wait out the term of the ACL agreement that expires in 2028 and either seek a new common carrier for the line who could agree to take actions to take inoperable portions of the SCBRL [Line] out of service through railbanking or other form of interim cessation of freight service such as embargo, OPSL, or discontinuance, or (2) RTC could decide to become the common carrier of the SCBRL in 2028 and institute one of these processes. RTC could also pursue modifying the current ACL, but a successful amendment would be contingent on PGR's willingness to negotiate. The RTC could also decide to terminate the ACL agreement and either find a new common carrier, or become the common carrier in advance of the expiration of the ACL agreement." - RTC agenda December 4, 2025, PDF page 596; chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.sccrtc.org/wp-content/uploads/2025/11/2025-12-04-RTC-agenda-packet-final.pdf

[13] "Commissioners Manu Koenig and Fred Keeley have thrown their support behind plans that shift construction of three Mid County segments of the trail toward an 'interim' design within the middle of the Santa Cruz Branch Rail Line corridor without the need for railbanking." - Santa Cruz Sentinel 1st December, 2025, attached hereto as Exhibit B).

[14] "(4) Direct Staff to return within two months with a proposal to allow the construction of the Interim Trail without the need for adverse abandonment of the freight easement or railbanking. (5). Direct Staff to bring back to the Commission for consideration a final design for and take any other actions to implement the Interim Trail on Segments 9-11 as expeditiously as possible. Pause project activities on the Ultimate Trail segments 9-11, and investigate where the tracks can be preserved next to the trail." – Minutes RTC agenda 4th December, 2025 – From agenda 15th January, 2026, pdf page 18; chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.sccrtc.org/wp-content/uploads/2026/01/2026-01-15-agenda-packet.pdf

[15] The Coastal Rail Trail Interim Trail Configuration described in the proposed Segments 8 & 9 and Segments 10 & 11 Cooperative Agreements locates the trail within the Santa Cruz Branch Rail Line in place of the existing railroad track alignment and assumes removal of the existing tracks to construct the trail. – RTC Agenda 5th February, 2026, pdf page 118; chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.sccrtc.org/wp-content/uploads/2026/02/2026-02-05-RTC-agenda-packet.pdf

construct the project, so this is not temporary interference with the common carrier obligation on the Line.[16] By law permitting the grant, the interference must run for the full 20 years.

THE NOTICE SHOULD BE REJECTED BEFORE IT BECOMES EFFECTIVE.

The Notice clearly raises unaddressed issues or questions that require considerable scrutiny and must be rejected as it is not appropriate for the class exemption process.

1. The Notice Ignores Numerous Regulatory Violations Committed by the Line Owner.

The Line, which was formerly owned by Union Pacific Railroad Company ("UP"), is part of the 30.957-mile line (Line+") that runs between milepost 0.433 at Watsonville Junction and milepost 31.39 at Davenport in Santa Cruz County, Cal. In July 2012, RTC sought a declaratory order from the Board that it would not become a common carrier under a transaction in which it would acquire the physical assets of the Line+ from UP, but UP would retain a permanent freight rail easement (the "Easement") thereon. In a related transaction, the Santa Cruz and Monterey Bay Railway Company ("SCMB") sought and received authority to acquire the Easement to provide common carrier freight service over the Line+ from UP. *See Santa Cruz & Monterey Bay Ry.—Acquis. & Operation Exemption—Union Pac. R.R.,* FD 35659 (STB served Aug. 17, 2012). As part of these transactions, RTC and SCBM entered into an Administration, Coordination and License Agreement to govern their relationship as owner and operator, respectively (the "Original ACL Agreement"). In September 2012, the Board determined that, under the precedent set forth in *Maine, Department of Transportation—Acquisition & Operation Exemption—Maine Central Railroad, 8 I.C.C.2d 835 (1991) ("State of Maine"),* RTC would not

[16] "All facilities constructed using ATP funds cannot revert to non-active transportation use for a minimum of 20 years or its actual useful life as documented in the project application, whichever is less, without the approval of the Commission." 2023/2027 California Transportation Commission (CTC) Active Transportation Program (ATP) grant guidelines, : https://drive.google.com/file/d/1sjVIGAROX49ZGPOKt3dEHysbTT8oDKiI/view?usp=sharing

become a common carrier by acquiring the physical assets of the Line+ and entering into the Original ACL Agreement. *See Santa Cruz Cty. Reg'l Transp. Comm'n—Pet. for Declaratory Order,* FD 35653, slip op. at 4 (STB served Sept. 7, 2012). According to RTC's subsequent petition for declaratory order, SCMB had been operating the Line+, but became unable to fulfill its common carrier and contractual obligations under the Original ACL Agreement and even temporarily ceased operations for a time. *Santa Cruz Cty. Reg'l Transp. Comm'n—Pet. for Declaratory Order,* FD 36213, slip op. at 2 (STB served Oct. 24, 2018) (" *Santa Cruz 2*"). As a result, SCMB agreed to transfer the Easement under quitclaim deed to SPPR. *See St. Paul & Pac. R.R.—Change in Operators Exemption—Santa Cruz & Monterey Bay Ry.,* FD 36207, slip op. at 1 (STB served Aug. 1, 2018). To govern the proposed relationship between SPPR as the operator and RTC as the owner of the physical assets of the Line+, the parties negotiated the terms of a "Revised ACL Agreement". *Santa Cruz 2*, slip op. at 2**. Because the Board found that entering into the Revised ACL Agreement, as proposed, would not allow RTC to interfere unduly with freight rail operations or result in it acquiring any rights or obligations to provide freight rail service, the Board declared that RTC would not become a common carrier.** *Id.* at 3 (emphasis added). In other words, RTC did not become a common carrier after purchasing the Line+ because it committed to the Board to not interfere with SPPR's freight rail operations. However, this is exactly what RTC did do.

First, around the beginning of 2026, RTC declared its intention to take control of operations on the Line+ as a common carrier for most of the Line+ from SPPR and by finding a new company to manage freight operations in Watsonville. As noted, the RTC planned to build an "interim trail" atop the train tracks through Eastside Santa Cruz, Live Oak, Soquel and Aptos after the takeover. However, SPPR pushed back strongly in a letter to the RTC. The January 23, 2026 letter called the move "factually baseless, legally invalid, and critically at odds with federal railroad regulatory law and policy." SPPR stated that the RTC had failed to hold up its end of the bargain by not making promised repairs to a bridge that would have allowed potential freight service on the Line. SPPR asserted that it is willing to bring the fight to the STB, and to bring a lawsuit.[17] In other words, RTC interfered with the freight service on the Line by never repairing the bridge and then using its own failure to seek to force SPPR off the Line contractually.

After its failed attempt to employ these strongarm tactics against SPPR, who rightfully objected, RTC bought its way out of the situation by paying SPPR a large sum of money to cease freight service on the Line and to file this Notice. Consequently, RTC's long-term plan to force all freight service off the Line is now on the cusp of success despite its statements to the STB in *Santa Cruz 2* that it would not interfere with freight service in order to obtain noncarrier status under the *State of Maine* and its progeny as the owner of the Line. These actions of interference by RTC run afoul of *State of Maine* and *Santa Cruz 2* and must be remedied before any further actions on the Line should be permitted. Therefore, RTC should be required to seek common carrier authority on the Line before any discontinuance action is allowed to proceed.

Moreover, allowing the discontinuance to take effect would create another procedural defect involving common carrier service on the Line and connecting rail lines. In the event RTC decides to have a subsidiary to operate the Line, no common carrier would remain responsible for providing service on the Line if a reasonable service request were made upon discontinuance. As noted, the Board found RTC to be a noncarrier in *Santa Cruz 2*, even though RTC now owns the Line and apparently holds the exclusive freight easement to operate over it. That result would

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[17] See "Progressive Pushes Back on RTC's Rail Line Takeover Attempt and Letter to RTC", Santa Cruz Local Jan. 23, 2026 https://santacruzlocal.org/2026/01/23/progressive-rail-pushes-back/

be anomalous: the same entity would own the Line and hold the freight easement, yet the Board has found that entity to be a noncarrier. At a minimum, RTC or its subsidiary should be required to obtain common carrier authority through the proper proceedings before any discontinuance proceeding on the Line is permitted.

Throughout its ownership, RTC has made clear publicly that it does not intend to operate the Line as a common carrier. That position warrants heightened Board scrutiny and assurances that RTC will satisfy its legal and regulatory obligations by repairing the Line and preserving the existing track. Without those safeguards, RTC would evade its federal regulatory obligations and effectively remove the Line from the national rail network without complying with federal law.

In addition, the result of these improper activities effectively will strand the rail segment operated by the Santa Cruz, Big Trees & Pacific Railway ("SCBG"). This rail line connects to the Line at Santa Cruz, Cal. While obviously the Line's operations would only be discontinued here, based on RTC's past actions, it is clear that this discontinuance will effectively be an abandonment, thereby avoiding the regulatory requirements for such an extreme consequence.

In sum, RTC has taken significant liberties with the Line by shirking its regulatory responsibilities and bypassing required filings. Although SPPR is not the source of the problem here, RTC has become central to this proceeding by effectively forcing SPPR off the Line. Its conduct therefore must be reviewed here as well. That is exactly why, in *State of Maine* cases, line owners that grant a rail operator a permanent freight easement must preserve the operator's right to discontinue service before the STB, ensuring that the owner does not improperly interfere with freight operations. That interference has occurred here. Accordingly, the Board should reject the Notice, require RTC to obtain approval as a rail carrier on the Line, and impose conditions protecting the Line to ensure that the Board's procedures are respected now and in the future.

2. The class exemption process is not appropriate for this transaction.

The Board has explained that these streamlined class exemption procedures are reserved for transactions involving routine, uncomplicated, and non-controversial matters. *Saratoga & N. Creek Ry.—Operation Exemption— Tahawus Line,* FD 35559, slip op. at 5 (STB served May 14, 2012). A notice that raises unresolved issues or questions that require considerable scrutiny may be rejected. *Saratoga & N. Creek Ry.,* FD 35559, slip op. at 5; *FPN-USA, Inc.-Operation Exemption-Tijuana-Tecate Shortline,* FD 35155 (STB served Aug. 8, 2008) (STB rejected notice because agency jurisdictional question was at issue); *Pro-Go Corp.-Operation Exemption-In Suffolk County*, NY, FD 35120 (STB served Mar. 13, 2008) (notice rejected by STB that left numerous questions unresolved). Also, the Board's class exemption procedures are not intended for use in matters that attract substantial controversy and local interest.[18] *Ne. Interchange Ry.—Lease & Operation Exemption—Line in Croton-on-Hudson, N.Y.*, FD 34734, slip op. at 4 (STB served Nov. 18, 2005) (STB rejected notice involving local opposition and litigation and questions about operational changes after transaction); *ABC & D Recycling, Inc.—Lease and Operation Exemption—A Line of Railroad in Ware, Mass.,* FD 35397 (STB served Jan. 20, 2011) (STB rejected notice based on complex questions raised in proceeding).

The proceeding at hand clearly involves complicated issues involving the Line that will have no common carrier operator upon becoming effective, another rail line that would be effectively stranded from the rail network, an evident attempt to remove the Line from rail

[18] Numerous filings have been submitted in this proceeding alerting the Board to the concerns of the public, the connecting railroad, and former prominent government officials about the actions of RTC.

service without going through the proper authority channels, a noncarrier operating as a common carrier, and significant local opposition due to these issues, among others. In similar situations, the Board has rejected notices for this reason. *See Burlington N. & Santa Fe Ry,* FD 34645; *Revolution Rail Holding Company, LLC – Acquis. Exemption – Saratoga & N. Creek Ry.,* FD 36535 (STB served Sep. 10, 2021) (notice rejected involving bankruptcy case and adverse abandonment proceeding regarding railroad to be acquired).

As the Board has explained with respect to the class exemption process, "[t]here are some types of situations in which approval would be so routine that we have a "class exemption" allowing parties to obtain Board authorization." *Riverview Trenton R.R. Company – Acquis. and Operation Exemption – Crown Enterprises, Inc., et al.,* STB FD 33980, slip op. at 7 (STB served Feb. 15, 2002). The proceeding at issue in this case differs substantially from the type of transaction that the STB has viewed as falling within the scope of the class exemption process. Therefore, based on this well-established precedent regarding the class exemption process, it is evident that the Notice filed herein should be rejected.

IN THE ALTERNATIVE, THE BOARD SHOULD STAY THIS PROCEEDING UNTIL THE AFOREMENTIONED ISSUES ARE ADDRESSED.

The Board has provided that:

> In deciding petitions for stay, the Board follows the traditional stay criteria by requiring a party seeking a stay to establish that (1) there is a strong likelihood that it will prevail on the merits of any challenge to the action sought to be stayed, (2) it will suffer irreparable harm in the absence of a stay, (3) other interested parties will not be substantially harmed; and (4) the public interest supports the granting of the stay. *Hilton v Braunskill,* 481 U.S. 770, 776 (1987); *Washington Metro Area Transit Comm 'n v. Holiday Tours, Inc*., 559 F 2d 841, 843 (D.C. Cir. 1977); *Virginia Petroleum Jobbers Ass'n v. Fed. Power Comm'n, 259 F.2d 921, 925 (D.C. Cir 1958).*

Grand Elk Railroad, LLC - Lease and Operation Exemption-Norfolk Southern Railway Company, STB Finance Docket No 35187 (STB served Dec. 22, 2008). FORT will demonstrate that the stay criteria have been met in this situation or at the very least, a stay procedurally makes sense here.

1. There Is a Strong Likelihood that FORT Will Prevail on the Merits.

As discussed herein, FORT has provided extremely strong arguments above why the Notice should be rejected.

2. The Public Will Suffer Irreparable Harm in the Absence of a Stay.

As described above, RTC has taken numerous actions that violate the Board's regulations, including acting as a common carrier without authority and improperly interfering with an authorized common carrier. The Notice is the product of those improper actions and should not be allowed to take effect. If the Board permits the exemption to become effective, it would encourage RTC and others to disregard the Board's jurisdiction to achieve their desired outcomes. That result would irreparably harm the public and undermine the regulatory framework governing the U.S. rail system. A stay would allow the Board and the public to review RTC's conduct and this transaction and would help ensure compliance with STB rules and regulations now and in the future.

3. Other Interested Parties Will Not Be Substantially Harmed.

SPPR will not be harmed by a stay. It will simply have to await the outcome of a more thorough examination of this proceeding and the related RTC actions as should have been required in the first place. As a result, a corresponding stay in this proceeding would not harm it and would only result in a proper and full review here.

4. The Public Interest Supports the Granting of a Stay.

The public interest clearly supports the granting of a stay. A stay will ensure that the Board can properly examine this complicated scenario and provide proper review to a request in the Notice that is more than meets the eye. The public interest favors fairness which a stay would provide in this situation involving this dispute over the rightful treatment of the Line.

Therefore, FORT satisfies the four prongs necessary for a stay which should be granted unless the Board simply rejects the Notice.

CONCLUSION

Based on the foregoing, the Board should reject the Notice as improper for the class exemption process, being misleading, and/or being deficient. Alternatively, the Board should grant the stay because FORT has demonstrated it meets all four prongs of the stay criteria and a stay makes sense considering the aforementioned discussion.

Respectfully submitted,

_/s/ Daniel R. Elliott_________________

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Attorney for Friends of Rail and Trail

Dated: July 15, 2026

Certificate of Service

I certify that I have, this 15th day of July 2026, served by email copies of the foregoing document on all parties of record in this proceeding.

_/s/ Daniel R Elliott_____________________________
Daniel R. Elliott
Attorney for FORT

Transcript courtesy of this online app:
https://www.youtube-transcript.io/videos?id=RZ6d9HU8Ewc

Good morning and welcome to the Santa

Cruz County region transportation

special meeting. Can I get a roll call?

>> Commissioner Jensen

>> present.

>> Commissioner Clark

>> present.

>> Commissioner Montino

>> here. Alter

>> present.

>> Alternate ship

>> here.

Commissioner Martinez

>> present

>> and Commissioner Alter here.

>> Um, can we go to to our communications?

This is an opportunity for the public to

weigh on items that are not in the

agenda. Do we have anybody here?

>> Seeing none, do we have anybody online?

And then we get um commissioner

>> I think he's participant

because he's altered for commissioner

Martin.

>> So we do not have any uh speakers on.

>> All right. So move on to the consent or
any additions and deletions.
>> Start together.
We have uh posted to the RTC website
um replacement pages for item four on
your agenda and those were um also I'm
sorry those were posted to the website
already.
>> Okay. Thank you for that. Um I see no
items in the consent agenda.
We'll move on to the regular agenda with
the authority of to form a 401 um C4
social welfare nonprofit corporation as
a subary entity to a provide rail
service and serve as commentary for all
and most of the sanction.
>> Okay,
>> now go to the
surprise.
Well, Commissioner
>> Coleman
construction going out
Thanks for getting
good morning uh commissioners Bella
Cresman, real property specialist. I
will be um giving a short presentation
on today's item, the formation of the

CCRTC

nonprofit rail services subsidiary.

Um okay, this map may look familiar by now. Um, the Santa Cruz Branch Rail Line was purchased in 2012 from Union Pacific to advance multimodal transportation uses, including future inner city passenger rail through the zero mission passenger rail and trail project and a multi-use trail through the coastal rail trail uh within the rail line right away. As part of this acquisition, the RTC purchased the rail assets and infrastructure while a freight easement was retained by Union Pacific and subsequently transferred to the new rail operator to serve as the common carrier. There have been two common carriers since the purchase in 2012. They provide free service in the area shown in blue uh between mile approximately point4 and three in the Watsonville area. Uh and the other uses shown on the rail line are in green. That is the active recreational rail use by burning camp along the Santa Cruz Beach boardwalk. So to advance rail projects on the branch line, the RTC is taking steps to become the nonoperating common carrier over all or a portion of the rail line for those areas shown in red. Um most of the line is nonoperational due to a lack of customers and the poor conditions requiring a significant investment to rever the infrastructure uh with those costs exceeding the available funds for the foreseeable future

and uh becoming common carrier and having right-of-way control over or nonoperational portion will put the RTC in a better position to advance priority regional rail projects, secure future rail funding, and better manage manage the rail line. This is a necessary step for developing transportation solutions along the branch line, protecting the public's interest, and preserving freight and recreational rail for the future.

Um, all right. So, uh, we conducted a public poll to find out the preferred name for this subsidiary. And you can see here in this chart, uh, voters preferences. We asked them to weigh in

on the the first part of the name for
the subsidiary. in the second part of
the name for the subsidiary and the
preferred and recommended name for the
commission's approval is Santa Cruz
County Coastal Rail.
So, um
here we have the uh S County Coastal
Rail, if that's the chosen name, uh
statement of purpose. And I won't read
it um here for you. within that packet.
But uh you know in essence it will
provide rail services by serving as the
operating or nonoperating common carrier
for the rail line to facilitate and
provide passenger and freight rail
services uh to benefit the public and as
necessary will manage, operate, maintain
and improve the rail property and the uh
nonprofits form will be comprised of the
RTC commissioners.
So, we have some critical next steps uh
to formally
profit such as registering with the
Secretary of State, the California
Attorney General's Office, and with the
IRS at an upcoming RT the meeting. The

SCCCR
will hold the first official meeting to
adopt the bylaws. Uh those are included
in uh the packet. Of course, um you can
answer any questions regarding those
bylaws. Um and uh this new nonprofit
will also enter into a service agreement
with the RTC to utilize RTC staff
services.
And when we are uh this new entity is up
and running and formally established, it
can move forward with filing for common
carrier status with uh circus
transportation board.
A quick overview of uh the packet.
So, um, so staff recommends that the,
uh, the commission adopt a resolution
approving all documentation necessary to
form the nonprofit corporation,
approving the structure and content of
draft bylaws, and authorizing the
executive director to form a 501c4
social welfare nonprofit corporation as
a subsidiary entity to the RTC to
provide rail services and serve as the
designated operating or nonoperating
carrier for all or most of the Santa

Cruz rail lines.
along with executing incorporation
documentation on behalf of the RTC and
the subsidiary and file file final
documentation and make minor
nonsubstantive edits of this filing
commission
questions.
Oh,
>> thank thank you very much chair and
thanks for the report. You know, I have
read the packet extensively and I do
have some questions and one of them is
uh you know what what is the subsidiary
the 5014C what is it really going to do
and what is it really not going to do?
So the the um subsidiary is formed to
uh have the position that's either
operating or nonoperating on the carrier
on the railway. And so RTC will enter
into an agreement with the subsidiary
and RTC will assign to the subsidiary
certain activities that are associated
with being the operating or nonoperating
comp carrier. And so what that would
mean is in for purpose in the
Watsonville area, it would mean that um

there would be a there would be an agreement with the third party operator, which is the party that is likely the one that bid on the most recent RFP um to operate the as common carrier in the Wingville area. And then RTC through the subsidiary would be the non-operating common carrier north of mile host 3 which would mean that it would have all of the uh responsibilities that would associate with that on the assumption that the line is in discontinued status. So, so there are uh you know there are maintenance obligations right now. There are vegetation clearing activities that take place north of mile coast 3 that RTC has principally paid for over the years. I think exclusively paid for over the years. And so that type of work would continue and then that would allow the RTC through the subsidiary to maintain the railway ride ofway over the over the into the future and to the extent that there's ever available funding for either the passenger rail system or repairs to the freight bridges

RTC would be the entity that would be
facilitating that along with the
subsidiary.
So the employees of the of the
subsidiary of the 5014C they would be
responsible for the maintenance.
>> So there there will not be any employees
of the subsidiary.
>> No employees.
>> No employees.
>> So the subsidiary again will enter into
a service agreement with staff uh with
RTC and RTC staff would continue to make
activities that we're already doing.
Okay. So there wouldn't be any RT RTC be
the employee of record for these
activities. Yeah.
>> Well, so RTC,
the RTC and the and the subsidiary entry
would enter into an MOU or cooperative
agreement, if you will, and those duties
that are presently being handled by the
RTC employees related to maintenance of
the rail line would be contractually
remained with the RTC and so the the
subserior would not have any employees
of Syria.

>> Okay, that that clarifies that. May I ask another question? Thank you, chair. Um,

what's the plan for how a new entity might meet a common carrier obligation to deliver freight if there is a request in the future for the nonoperational part? Yeah.

>> So that so any common carrier whether that's progressive right now or RTC is the nonoperating common area if there were a request for service assuming the line is not discontinued. If the line is discontinued a service request would not be honored. If there was if the line was not discontinued, a service request could come in. But if RTC could not provide that as the common carrier, they would have to notify whoever the shipper is that they can't provide that service. Part of the issue that exists right now is the line north and mile post 3 with limited exceptions in in the city of Santa Cruz where Laura Camp operates is really effectively out of service already. and the current common carrier

uh probably should have noted that in
the freight records. So, as the
commission will require, there's a
designation called an OPSL which tells
shippers that a line is out of service
and that has not been done by the
current carrier. If the line is
discontinued, we don't have to do that
because the discontinuence is in the
official shipping records u administered
by the SQB.
>> Thanks for that clarification. Um will
the uh subsidiary receive any measure D
funds?
>> Um right now we are anticipating funding
the subsidiary activities using our uh
revenue from agreements from private
entities and other entities that we have
same leases with or license agreements.
We do get um a small amount of revenue
from uh real property agreements that we
collect. And so we're planning to
current our current plan is to use those
funds to um operate this city.
>> Thank you.
>> That's it right now. Thank you.
>> Any other questions?

>> Yeah, just uh and this is just I guess for my own clarification on a couple of things here. So in operating the the entity, the subsidiary, I notic that giving it the authority to incur debt, borrow money, property tax. Would those things would would the subsidiary be able to act on those things independently or would it require approval from the commission? So, uh the effective answer to that is it requires approval by the commission, but that really plays out in two ways. The first one is that the budget of the subsidiary agency has to be reviewed by the RTCSL.

Um the second one and probably the more important one is that the RTC commissioners, the then sitting RTC commissioners are in fact the commissioners of the subsidiary entity. And so whatever decisions are made, one would assume there's alignment in those decisions.

>> So and so um so it's it's this combination of controlling the budget as well as the composition of the board. Um

the other thing to keep in mind is that you know if it is a separate entity it does have certain legal authorities with it. The corporations code which is where this nonprofit structure comes from does allow certain types of activities of corporations they can enter into contracts for instance and we reflected that in the bylaws as they go forward but the real controlling factor is going to be it's the same opposition the commission and the board.

>> Great thanks that's my question. questions. Commissioner Martinez.

>> Yeah, just trying to clarify the scope of this entity versus the RTC. I have a couple questions around that. Um, one is just around any um trail building or our grants on the trail. Is that is this entity involved in any of that work?

So, so currently the arrangement that we have, say we have a trail project that we need to build the trail project, say it's the city or the county, they enter into a right of entry agreement with the RTC

um as the owner of the line. Um and then

after that executed, they're required to
actually enter into a right of entry
agreement with the Common Care with
progressive terms. Um, so that would,
you know, we're talking about how we
could maybe consolidate it into a single
right of entry and it would maybe be a
little bit more efficient, but it
wouldn't be this multi-step process
anymore. It would be kind of a simpler
process. So that's the only real
>> none of the work would be in contract
with
>> no the I would just add to what Sarah
was saying. the the the reason the
subsidiary entry entity would have to
enter into that right of entry similar
to progressive right now is that because
the subsidiary entry will hold the
freight eastment.
>> Got it.
>> And that's that portion of the railway
rightway.
>> And then how about any of the like
encroachment
challenges that we have along the rail
line? Will the new entity be taking on

that liability or is that still with the
RTC?
the new entity, the authority of the new
entity does extend to the entire railway
right ofway. And so that is an issue
that could be considered. It's not it's
not specifically identified to either
retaining it as an RTC issue or as a
subsidiary entity. From a practical
standpoint, the regulatory authority
that might be necessary to to deal with
those encroachments best more with the
RTC
>> than the subsidiary agency.
>> So if there was a lawsuit, it would be
with the RTC as opposed to the
>> Yes. Yeah. Because the RTC is ultimately
the owner of the railway rideway.
>> Okay. And then as it relates to like
maintenance along the rightway, is that
the new entity or is that the RTC?
>> That's that's the new entity
contracting through the cooperative
agreement back with RTC.
>> Got it. So any liability around
maintenance
would be the new entity.

>> Uh correct. The new entity will have to have its own insurance for that type of activity as well.
>> Okay. Okay. Um and then one last clarification. The new entity will be subject to all Brown Act requirements, right?
>> That's correct.
>> Okay.
>> All right. I might have more questions, but I don't think
>> in addition that same conflict of interest requirements that exist for RTC commissioners as well too and and staff.
>> Okay. Thanks.
>> Sure. Couple things. Um, I think in your answers to my colleague's question, it was clear that nothing in the formation of this subsidiary would pre prevent us or inhibit us from building uh a trail in the rail corridor including the inter trail.
>> That's correct.
>> Um, and I mean this commission has made clear that um, you know, we we do not want to pursue rail banking. is it's not certainly not a first choice, but it is

certainly within the realm of
possibility that some combination of
pressures on us by other entities could
put us in a position where it was in our
best interest. Is there anything in
these formation documents that would
preclude that option in the future?
>> No. No, there's nothing that would
preclude it. Um
assuming it could be approved by the
SCP,
>> right? So nothing nothing in this that
contractually gives a subsidiary entity
any right to negate the RTC's decision
if the RTC subsequently decided about
that.
>> Right. Okay. I mean it's as was made
clear in the memo we've uh the common
carrier
uh responsibilities have transferred
twice while the line's been in our
ownership already. Um it was time that
we took responsibility for this
ourselves and and formed our own rail
line to become the common carrier from
100% in favor.
>> Just to be clear as I understand it the

subsidiary is essentially the RTC with a different name. It's run by the same commission and it's being set up purely to protect the RTC
in terms of legal liability and also in terms of various additional costs that rail operator or holder of the freight would have that because there aren't going to be any employees to the RT uh to the subsidiary that's not going to be an issue. Um, so really anything the commission could do or couldn't do or was going to be required to do to the extent that some of those things are being done by the subsidiary, they're really being done by the RTC because just with a different name because the board of board of directors of the RTC is a commission. So it's really in a sense just a legal in a sense a legal fiction to provide some protections to the RTC
legally and financially um while it goes forward and does all the things it would have to do as the common carrier if there wasn't a subsidiary.
So I it just I I don't unless I'm

misunderstanding it uh and you'll tell me if I am. Um, that's, you know, that's all that's going on here is we're, you know, creating this subcorporation to do the things that we'd have to do otherwise that we would still be doing, but with more legal protections.

>> That is um so that is generally correct. The the issue and and we'll take this back. Remember your railway council Eric Haki recommended that the commission create the subsidiary entity and it does provide some liability protections. Um I do have to be clear and have the record be clear. They are separate legal entities. You could have chosen to make the board some other composition. the documents that are before you create the board as the commission and so but but a subsidiary entity could have a different board in this instance as long as the commission is the board there's no ability for that board to switch over to some other composition if you will but it is

>> you'd have to but that would require the majority of the commission to approve

commissioners to approve and so so
commissioner Shiffron's point is correct
does create some protections from a
legal liability standpoint, but I would
love the commission to understand it is
a separate corporation. It has separate
reporting requirements as a corporation.
Um, it has uh it has because it's a
nonprofit corporation. It has certain
limitations on what it can do with
assets if it ever um dissolves in some
way. And we've set it up so all the
assets come back to the RTC, if you
will. And so, but it is a separate
corporation.
Commission.
>> Thank you, Mr. Chairman. Mr. Chairman,
uh it seems to me that that uh
it really is more substantive than I
would not characterize it as a legal
fiction. The reason I wouldn't is
it seems that this is quite similar to
what cities and counties did back in the
redevelopment agency days where they
said the redevelopment uh board of
directors is the same as the city
council. But we're doing this because a

redevelopment agency has these authorities to do these things uh that are separate from the city but they are essentially functions
that are that are that are undertaken that way. The successor agencies RDAs seems to be that they're quite similar to that as well. Infrastructure financing districts quite similar. This this is done all the time by local governments throughout California and elsewhere. Uh so I I would not narrowly cast this as it is either a a legal friction or b it is only for about liability issues. There are a whole range of other activities that we do this all the time in government because we're undertaking the the city of Santa Cruz uh wants to do an infrastructure financing district because it it does this and this.
uh that's not done because it's a legal fiction or we're trying to avoid liability. It's because by doing that we are empowered under law to do certain things. So as to point of view about this, this to me looks a lot more like

that in which case I think it's a
thoughtful and important thing for us to
do.
>> Yeah, it is. and we're using the
structure of the 501c4
um to create the structure of this
organization and we're using RTC's
inherent legislative authority to create
this as well too. successor agencies,
RDAs, infrastructure financing districts
have additional state authority just
like RTC has additional state authority.
But this is uh this it is quite common
for public agencies to create uh
subsidiary or nonprofit components to
them. And in this case again it's not
just the legal liability exposure. It's
also that uh folks who work on
railroads, for instance, if we actually
were to operate a railroad on a portion
of this and those employees were subject
to federal railroad retirement laws,
that's a very different structure than
hers in California. And so that's part
of the reason that Eric was also
recommending so that if there ever were
employees at this organization, which

were purely just RA employees of this
organization, they might be subject to
different uh uh retirement requirements
and federal labor laws associated with
this. Thank
um I think commissioner raises a good
point but I think there's an important
distinction at least as far as I'm
concerned when the city sets up a
infrastructure agency or in the past a
redevelopment agency those agencies can
do things that the city can't do on its
own. What's different here is that
everything that the subsidiary is able
to do, the commission is able to do, we
just don't want to do it because of the
potential cost liability. There's
nothing that the subsid subsidiary can
do as I understand it that the
commission itself couldn't do if it was
the common carrier. Am I
>> as the duties are specified in the
bylaws right now? That is correct.
Conceptually, not saying this is the way
that it ever would operate.
Conceptually, 501c4 corporations are for
the purposes of promoting social

welfare. So, they do have some
authorities that um that could be
utilized at some point in the future if
a 501c4 organization want to do that.
That's not the way we've set up the
bylaws right now because that's not what
the commission is looking for. this
commission to be able to do the 501c4s
are social welfare organizations. They
exist for they exist in different
structures for different kinds of
charitable uh purposes, social welfare
purposes. This one just happens to be
set up to facilitate the operating
nonoperating common carrier approach.
>> So I've been corrected justifiably not
calling it a legal fiction. It's not a
legal fiction. However, it is
essentially a subsidiary that's able to
do just what at this point anyway what
the commission itself could do, but we
don't want to do it because of the,
you know, the liabilities.
So, it's worth setting this up to allow
us to do to allow a different legal
entity. It's not efficient. It's
actually out there. Um but it's doing

things that other things being equal the
commission could do that. Uh we can do
all the things that are
we're proposing to do um have or have
the subsidiary to do. We can do
maintenance. We can contract for
services. Those are all things that the
commission could do as a common carrier.
It's just that there were potential
problems doing that. And so we we
setting up the subsidiary and
governing getting those things done
ourselves as the board of directors as
Steve said we have to be the board of
directors but I'm glad we are to oversee
what's being done but it's you know this
are activities that the commission would
carry out by
Commissioner.
So to keep this going,
>> it seems to me that that the wisdom of
this
there was a whiff of
earlier in the conversation that were
sort of just doing this to limit our
viability. I want to underscore how
important that is to limit our

liability. If we're going in the
railroad business and doing business
with somebody, I don't want to
jeopardize our active transportation
funds or this money or that money or
road money, you know, road repair money,
highway improvement money, all the rest
of it. I don't want somebody being able
to pierce into all of that because
they're upset about something on the
railroad world. So it's not a a there's
a little whiff that oh gee we're just
doing this as if that's a trivial issue.
It is a core issue for preserving the
fiscal integrity and operational
integrity of the body. So setting that
up in that way is a is a supremely
prudent move by the agency.
trouble.
>> Um,
>> so I think right now this board, the RTC
board seems to have a great deal of
alignment with the direction we're going
>> for future boards because these are all
elected positions. There might be a
turn. Who knows what will happen in the
future? Is it would it would it be

better or is there a benefit to having a
separate board for this entity?
>> Um
>> that would be more resistant.
>> Yeah.
>> Yeah. Or just you know I just I'm
worried these are all political people
that are elected. Is there uh it would
it be prudent to have a different type
of
>> I I would say that so there there are a
number of agencies which do have
different compositions of boards
sometimes there's conflict between the
two boards even the creating board and
the subsidiary board um I one of the and
I'm saying this Sarah may have a
different opinion on part of this um as
this commission is kind of plotting its
course forward forward and recognizing
the limitations that exist on the
railway right now. I think it is very
important to have the boards have
continuity and continuity of position
and so I think it's advantageous to do
it the way that we're structuring it
right now. In terms of a disadvantage,

it would primarily be the risk that there would be a kind of a fundamental disagreement between the direction that the commission wants to go in and the direction that the board would want to go in uh at some point. And and I I I see that as a pretty significant like it would be a significant problem if it actually occurred in particular as you're moving forward over the next number of years and deciding how you're going to go forward with like passenger rail and and uh and trail segments and freight repairs along the things. So
>> okay, thank you. And then this just makes it more straightforward. We don't have to because we're planning on having minimum one board meeting a year and then as needed for this new subsidiary. And the way that we have it kind of recommended as a structure. It's just, you know, we start the meeting, we do the business, we journ the meeting, and then we start the meeting, you know, and then it's it's simpler because we don't just shuffle seats around and people getting up and leaving and coming in, it

just makes it a lot simpler for staff
and
>> commission.
>> Yeah. Um, and many of us, I know, are getting emails, why didn't we do JPA? Why didn't we do this? And I know with our agency, none of our agencies are in a position to to want to take that on. So it's not as though we haven't been given the opportunity.
>> Um it's not something that any of us would want to be take take that responsibility on. So it isn't as though the agencies in the county weren't offered an opportunity, but it's felt that this would be the more logical direction.
A JPA is an alternative. Cal Train is a JPA and it operates as a JPA and and as those who follow Cal Train are aware sometimes they get along the JPA members get along very very swimmingly and sometimes they have pretty significant disagreements in the JPA but a JPA would have required another public agency willing to be a member of the uh of the JPA with with sectors. This effectuates

the same thing that a JPA can do but
allows the control to remain uh with a
board composed of the commissioners.
>> Yeah. Just from an operational
standpoint um and operational budget per
se um if the subsidiary need legal
counsel um something how how would that
be established?
So all of the services that would be
provided to the subsidiary are going to
be through a cooperative agreement
between the subsidiary and the RTC. So
presumably the RTC will set it up so
that the legal services will be provided
to the contract that RTC has with with
me as your general counsel. So
hypothetical if there's
legal action taken against the
subsidiary and RTC RTC is going to be
then covering the cost for both
>> well the so uh the revenues of the
railway would cover the cost first but
the revenues of the railway Sarah's
indicated are fairly limited so the the
back stop for that would be funding for
the RTC
>> okay thank you

>> that's subject to the annual budget
appropriations
See no other questions. I'm going to go
out to the public.
>> I would like the public wear this
agenda.
>> Seeing none here. Do we have anybody
online?
>> We do not have any speak public
for
the recommended actions. So it's been
moved and second
or is it very important?
might be the only time.
>> This guy was in Sacramento for two days
and said, "I have to go to the Ranger
Museum and get myself a train." He
totally said that.
>> I've never been more proud to support.
>> You don't need a roll call. You have
everybody.
>> All those in favor I
>> all those opposed none any nine. So it
passes. So we're going to go on to um um
number five items of the to be
discussing close.
We have two items scheduled for the

close. One is a conference with real
property negotiations involving
negotiations or potential negotiations
including RTC and progressive rail
related to the Santa Cruz branch line
right away. And the second one is
conference with legal counsel
anticipated litigation that too relates
to u uh the determinations of u how the
railway might be used and whether or not
that gets challenged by any part.
>> Thank you. any public um comments from
the public on those items. See none
here. Anybody online?
>> We do not have anybody. Oh,
>> we'll close that up. Thank you very
much.

SANTA CRUZ — With a highly-anticipated Santa Cruz County Regional Transportation meeting only days away, a pair of commissioners have formed an unlikely alliance and are promoting what they believe could be a solution to the Coastal Rail Trail's financial woes while sidestepping its thorniest issue.

But the proposal is already facing strong pushback from local stakeholders and community advocates who believe it could mark the end of a future with passenger rail service.

Commissioners Manu Koenig and Fred Keeley have thrown their support behind plans that shift construction of three Mid County segments of the trail toward an "interim" design within the middle of the Santa Cruz Branch Rail Line corridor without the need for railbanking. They have distilled their recommendations into a letter that Keeley told the Sentinel was shared with the commission Friday and will be put to a vote at the commission's meeting Thursday.

Tracking the history

Railbanking is an alternative to full abandonment of an unused freight rail line in order to provide legal, temporary use of a rail corridor for non-freight use, according to the commission. It requires federal approval.

That process was roundly rejected by voters through the Measure D Greenway Initiative in 2022 and Keeley and Koenig were on opposite sides of that fight, which continues to ignite fierce debate within the community today.

But with segments 8 through 11 of the rail trail facing a large funding gap, combined with grant deadline pressure that looms larger by the day, Keeley and Koenig say they've set their differences aside to develop what Koenig called a "peace plan" that favors the use of potentially three different federal processes to achieve their desired outcome: an embargo, an Order of Perpetual Service Limitations or discontinuance. These processes, they argue, could permit the trail to be built where the tracks are within segments 9 through 11 while ensuring that entities that still utilize portions of the line — namely Roaring Camp Railroads — could continue to do so. Segment 8, according to what's proposed in the letter, would remain in the "ultimate" configuration.

"What we're both saying is: In order not to lose this active transportation grant, we're going to use another tool in the federal toolbox to get our job done and deliver on the grant," said Keeley.

For years, the commission has pursued what it calls the "ultimate" design for the rail trail which places a multiuse bicycle and pedestrian trail primarily adjacent to the rail line itself. This design is on display at Segment 7, which runs from Natural Bridges to the roundabout near the Santa Cruz Wharf's entrance. The interim option puts the trail in place of the rail line at the center of the corridor.

The latter option was the focus of the 2022 measure, which sought to update language in the county's general plan to favor the interim design, which according to the county's impartial analysis at the time, required railbanking.

Railbanking needs to be initiated by Progressive Rail, the rail line's common carrier, to avoid an adverse abandonment process, which could ignite a lengthy negotiation and potential legal challenge. Progressive Rail has historically been opposed to railbanking, according to the transportation commission, as has Roaring Camp.

The measure proceeded to a sweeping defeat almost four years ago, with 73% of voters against it and 26% in favor — a margin more than wide enough to propel continued support on the commission for the ultimate configuration, as well as exploration of a passenger rail project. Keeley, then a private citizen, was in opposition to the measure while Koenig was in favor.

Preserving the grant

For Koenig and Keeley, circumstances have changed. Trail construction costs for the four Mid County segments have ballooned and the projects now face an estimated $72 million funding gap which can't be supported by the local funding source, also called Measure D, but passed in 2016. The segments, spearheaded by the county and city of Santa Cruz, have been awarded about $120 million in state and federal grants, including the largest active transportation category grant ever awarded by the California Transportation Commission. But to retain those crucial funding windfalls, the commission and its local partners have to demonstrate that they are making progress toward construction without compromising project benefits, such as overall distance.

Koenig said because the interim design is more straightforward and faces lower costs, it is the only option that can deliver the trail while retaining the state and federal support.

"The reason I think we're here is really, more than anything, the cost overruns we've seen for the ultimate trail," said Koenig. "We can't go back to the trough … and get more money from state and federal partners. At this point, we gotta deliver and the interim trail costs half as much, so we can actually deliver it."

Keeley said he, Koenig and others from the commission met with California Transportation Commission leaders who shared that any effort to reduce the length of the trail segments to cut costs would also come with grant reductions. However, according to Keeley, the state officials were open to the interim approach as a solution.

"Irrespective of where (Koenig) and I are at on rail, what we do know is that if we don't fix this active transportation grant challenge right now, whether it's rail or trail or virtually anything else that the CTC grants, I think we're in deep jeopardy of going from being a favored transportation commission in the state to one they want nothing to do with," said Keeley.

Reigniting the flame

While Koenig and Keeley are seeing eye to eye, their vision has reignited a fierce debate in the community that dates back years. County Friends of the Rail and Trail, an advocacy group that helped defeat Measure D, said Keeley and Koenig's proposal isn't a compromise at all because it implements a "trail-only and no-rail-ever" vision that was rejected by the public in 2022.

“Voters did not approve what amounts to a permanent delay of rail service,” the group’s Board President Matt Farrell wrote in a release. “The proposed ‘peace’ violates the will and intent of the voters.”

There’s another reason the group remains fiercely opposed to the plan. Farrell wrote that he and his colleagues discovered that if the railroad tracks are removed, it will jeopardize the rail line’s inclusion within the federal [Corridor Identification and Development Program], which supports a pipeline of intercity passenger rail projects across the country.

Farrell asked the commission not to take any formal action on Keeley and Koenig’s plan, which he argued the public has not had enough time to adequately review and comment on.

“Commissioners Keeley and Koenig should be commended for their focus on finding a solution to what is clearly a vexing situation,” wrote Farrell. “Their vision needs significant revision to find a way forward for the Coastal Rail and Trail project that honors the will of the voters: build the trail and keep the rail for future passenger service.”

Keeley and Koenig disputed this claim in their letter, noting that they were told by state authorities that removing the rail line for the Mid County segments would not eliminate the county from state or federal rail plans.

Leaders with Greenway told the Sentinel they applauded Koenig and Keeley’s plan.

“If the RTC has found another legally sound way to build the full trail while preserving the corridor, great. What matters is real progress after years of stalemate and misinformation,” Bud Colligan, a Greenway leader, wrote to the Sentinel in a statement.

Jack Brown, another voice from Greenway, added, “For the first time in years, we’re seeing leaders acknowledge that we can’t keep waiting indefinitely for a rail project that has no funding, no timeline, and no clear path to construction.”

The commission’s [recently finalized passenger rail report] found the project would come with a $4.2 billion price tag.

Koenig echoed the sentiments shared by the Greenway leaders and declared that the ultimate trail isn’t within financial reach.

“That promise that we can build rail and trail is not true,” said Koenig. “You cannot build a trail next to the rail. It’s unaffordable.”

Keeley said he and Koenig still disagree about rail viability long-term and he doesn’t believe the deal they’ve crafted betrays the will of the voters. Even the question of how to locally fund a rail project is more than a decade away, said Keeley, and he argued that the plan will save the grants, deliver the trail segments promised through the 2016 Measure D and protect Roaring Camp’s business and operations while preserving an option for passenger rail in the distant future.

“I’d never vote for railbanking or abandonment, but I will vote for the right tool that does the job now that we need done and does not threaten Roaring Camp’s business,” said Keeley. “Will this help us get over our problem and preserve options in the future? I think the answer to that question is ‘yes,’ and the alternative is horrible.”

In a statement shared with the Sentinel Friday, Roaring Camp Railroads CEO Melani Clark said the organization does not support “any plan for the Santa Cruz Branch Line that includes removing tracks, ties or ballast materials.”

In addition to its well-known beach train that runs from Felton to the Santa Cruz Beach Boardwalk, Roaring Camp is also the designated freight operator on behalf of Progressive Rail in South County, from Lee Road to Pajaro Junction, and it assists a variety of inbound and outbound local freight customers.

“We support our community’s commitment to the vision for the corridor that includes a trail alongside the rail line,” wrote Clark. “We encourage the (commission) to continuing working toward a solution to the current funding challenges that retains the existing rail line and enables trail construction to continue.”

On tap Thursday

Included on the commission’s agenda Thursday is a detailed overview of the railbanking process — requested by the commission this fall — as well as a proposal to accept the Zero Emission Passenger Rail and Trail Final Project Concept Report.

As part of the motion to accept the passenger rail report, Keeley and Koenig wrote in their letter that they intend to add significant direction within the motion.

This includes instruction to staff to return within two months with a proposal to build the interim trail without the need for adverse abandonment of the freight easement or railbanking; prepare final design for the interim trail on segments 9 to 11 and to suspend ultimate trail activities in those areas; continue to work toward the ultimate design for Segment 8 with the segment’s sponsor; and to revise cooperative agreements with the city of Santa Cruz and the county to implement those directions.

Keeley and Koenig’s proposal would also include directing staff to allocate some funds to the passenger rail project environmental impact report, to seek full funding for the project and to approve a resolution in support of the future rail and continued partnership with state and federal entities.

IF YOU GO

What: Santa Cruz County RTC meeting.

When: 9 a.m., Thursday.

Where: Watsonville City Council Chambers, 275 Main St. in Watsonville, floor 4.

Why: Discussion of the finalized passenger rail project concept report and possible interim design direction. Also, an overview of railbanking.

VERIFICATION

I, Jacob Wysocki, member of Friends of Rail and Trail, declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct. Further, I certify that I am qualified and authorized to make this Verification on behalf of the Friends of Rail and Trail. Executed on July 15, 2026.

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Jacob Wysocki