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JOSEPH T. CONNOR
FINANCIAL ANALYST

January 11, 2002

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

ENTERED
Office of the Secretary

JAN 14 2002

Part of
Public Record



Re: *North San Diego County Transit Development Board --
Declaratory Order, Finance Docket No. 34111*

Dear Sir:

I am enclosing an original and ten (10) copies of the Motion of of North San Diego County Transit Development Board To Strike Portions of the Reply of city of Encinitas (with Declaration of Karen H. King attached) in the above-referenced proceeding. An additional copy is enclosed for date-stamp and return to our messenger. Please note that a 3.5 inch diskette is enclosed with this document.

Sincerely,

Charles A. Spitulnik

Charles A. Spitulnik

Enclosure

cc: Joseph H. Dettmar, Esquire
All parties on the Certificate of Service

204388

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 34111

**NORTH SAN DIEGO COUNTY TRANSIT DEVELOPMENT BOARD
- DECLARATORY ORDER -**

**MOTION OF
NORTH SAN DIEGO COUNTY TRANSIT DEVELOPMENT BOARD
TO STRIKE PORTIONS OF THE REPLY OF CITY OF ENCINITAS**

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Counsel for NORTH SAN DIEGO
COUNTY TRANSIT DEVELOPMENT
BOARD

Dated: January 11, 2002

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Office of the Secretary

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 34111

**NORTH SAN DIEGO COUNTY TRANSIT DEVELOPMENT BOARD
- DECLARATORY ORDER -**

**MOTION OF
NORTH SAN DIEGO COUNTY TRANSIT DEVELOPMENT BOARD
TO STRIKE PORTIONS OF THE REPLY OF CITY OF ENCINITAS**

North San Diego County Transit Development Board ("NCTD"), through counsel moves to strike certain portions of the Reply Of City Of Encinitas (the "City") filed in this proceeding on January 2, 2002 and in support thereof states as follows:

I. ARGUMENT

The City's Reply to NCTD's response to the Surface Transportation Board's ("STB" or "the Board") order issued in this proceeding on December 6, 2001 contains a material mischaracterization of the facts, which must be stricken from the record of this proceeding. That Reply contains numerous references to a draft policy statement, and to documents related to that statement that attempt to convince the STB that NCTD has undertaken a commitment that the final version of the policy statement at issue does not contain.

Specifically, the City's Reply states that NCTD "when implementing its Coastal Double Track Policy, it issued a paper on "Questions and Answers" concerning the policy." *City's Reply* at p. 5. The City, later on its reply, again refers to the "Questions and Answers Regarding The Policy" as follows:

Q: "The policy mentions NCTD would conduct project-level environmental review

for sensitive double-track projects. Doesn't NCTD, by law, have to do EIR's for these projects anyway.

- A. There are provisions in federal and [sic] state law that may exempt certain rail improvements [sic] projects from state and local environmental regulation. However, under this policy NCTD, as a matter of policy, would conduct environmental reviews in accordance with the California Quality Act (CEQA) and, if applicable, the National Environmental Policy Act (NEPA) NCTD would also conduct project-level EIRs of [sic] the Sorrento to Miramar and Encinitas Passing Track Projects. NCTD would also continue to seek to obtain applicable permits and approvals from [sic] federal authorities and the California Coastal Commission as required."

Q. "How would the policy affect the Encinitas Passing Track?"

- A. "...NCTD would conduct a project-level EIR that would consider coastal access, bluff erosion, noise impacts..."

See City's Reply at p. 12. The City unmistakably, is attempting to create the illusion that the Questions and Answers it refers to and attaches as Exhibit J to its Reply relates to the final Coastal Double Track Policy the NCTD Board adopted on March 29, 2001, and that the final Coastal Double Track Policy included the Encinitas Passing Track and a commitment to conduct an EIR. This is not the case. The Q&A refers to a Draft Policy Statement that was not adopted. As a result, the City presents a misplaced and unfounded argument that NCTD should "simply live up to its obligations" to conduct an EIR with respect to the Encinitas Passing Track. Similarly, the City erroneously argues that the Encinitas Passing Track is part of the double tracking project contained in the 2020 Regional Transportation Plan ("2020 RTP"). *See City's Reply* at p. 8. These arguments and the evidence on which they are based must be stricken.

The attached Declaration of Karen H. King¹ confirms that the City's reference to this document as a commitment of NCTD should be stricken. In February of 2001, the NCTD staff generated a Draft Coastal Double Track Implementation Policy (hereinafter "Draft Policy"). *See Declaration of Karen H. King* at ¶ 2. Along with the Draft Policy the NCTD staff generated "Draft Coastal Double Track Implementation Policy Question and Answers" (hereinafter "Question and Answers").² The Board then reviewed those Questions and Answers as part of its review of the Draft Policy. *Id.*³ At no point in time did the NCTD Board adopt the Draft Policy. *Id.*

Thereafter, the Draft Policy was amended. *Id.* at ¶ 3. The amendment included the elimination of the Encinitas Passing Track from the Coastal Double Track Implementation Policy. *Id.* At the March 29, 2001 meeting the NCTD Board adopted the final Coastal Double Track Implementation Policy. *Id.* at ¶ 4. The final Coastal Double Track Implementation Policy did not include the Encinitas Passing Track nor did it include a commitment to perform an EIR for the Passing Track Project. See copy of the final Coastal Double Track Implementation Policy attached as Exhibit 5 to *Declaration of Karen H. King*. Furthermore, the Encinitas Passing Track was not part of the future double tracking project contained in the 2020 RTP. *See Declaration of Karen H. King* at ¶ 6.

It is clear, based on the undisputed facts, that NCTD did not adopt the Encinitas Passing Track in the final Coastal Double Track Implementation Policy, nor did NCTD commit to

¹ The exhibits to this Declaration are numbered 3-5, picking up the consecutive numbering of exhibits submitted to date in this proceeding by NCTD.

² These Question and Answers, which pertain to the Draft Policy, are the same Question and Answers the City has attached to its Reply as Exhibit J, and continually and erroneously associate with the Coastal Double Track Policy the NCTD Board adopted on March 29, 2001.

³ The "Question and Answers" were prepared to address specific issues in the Draft Policy, which included: (1) near-term specific projects including Encinitas Passing Track; and (2) long-term double tracking of the entire right-of-way. *Id.*

perform an EIR.⁴ Based on these facts, it hard to explain how the City can justify its repeated assertions that the final Coastal Double Track Implementation Policy includes a commitment to perform an EIR based on the inclusion of the Encinitas Passing Track. It is just not true, and the City's references to that Policy as a commitment on the part of NCTD should be stricken.

II. CONCLUSION

Based on the undisputed facts, this Board should strike the portions of the City's Reply that state, suggest or imply that the Coastal Double Track Implementation Policy adopted on March 29, 2001 included the Encinitas Passing Track or a commitment to perform an EIR with respect to the Encinitas Passing Track.

Respectfully submitted,



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Counsel for NORTH SAN DIEGO
COUNTY TRANSIT DEVELOPMENT
BOARD

Dated: January 11, 2002

⁴ This is not a case where the parties are arguing or interpreting the meaning of ambiguous terms
... Footnote continued on next page

CERTIFICATE OF SERVICE

I certify that I have this date served a copy of the Motion of North San Diego County Transit Development Board To Strike Portions Of The Reply Of City Of Encinitas on the persons listed below by first class U. S. mail with postage prepaid and properly addressed.

Stephen M. Uthoff
Coniglio & Uthoff, APLC
60 Elm Avenue
Long Beach, CA 90802

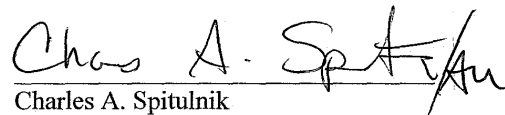
Christopher Pederson
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Glen Sabine, City Attorney, City of Encinitas
Margaret Moore Sohagi, Esquire
Philip A. Seymour, Esquire
Fox & Sohagi, LLP
10960 Wilshire Boulevard
Suite 1270
Los Angeles, CA 90024-3702

Kennard R. Smart, Jr.,
Woodruff, Spradlin & Smart
701 South Parker Street, Suite 8000
Orange, CA 92868

Peter Douglas, Executive Director
Ralph Faust, Chief Counsel
Catherine E. Cutler, Deputy Chief Counsel
Amy F. Roach, Deputy Chief Counsel
California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105

Dated this 11th day of January 2002.


Charles A. Spitulnik

or facts. The final Coastal Double Track Implementation Policy says what it says.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 34111

**NORTH SAN DIEGO COUNTY TRANSIT DEVELOPMENT BOARD
-DECLARATORY ORDER-**

DECLARATION OF KAREN H. KING



I, Karen H. King state as follows:

1. I, Karen H. King, am the Director of Development and Communication Services at North San Diego Transit Development Board ("NCTD"). I have held the position for three years. My responsibilities include directing the planning, implementation and accomplishment of highly critical planning and capital development projects essential to the successful operation of NCTD bus and rail services in accordance with Board Action, Executive Director approval, legal statutes and procedures and NCTD policy. This includes the study, planning, design engineering, and construction of major railroad improvements within the San Diego Corridor railroad right-of-way. I was the lead staff person involved with the development and ultimate adoption of NCTD's Coastal Double Track Implementation Policy ("Policy").
2. NCTD staff was responsible for generating the Draft Coastal Double Track Implementation Policy (hereinafter "Draft Policy") and the "Draft Coastal Double

Track Implementation Policy Question and Answers" (hereinafter "Question and Answers"), (Exhibit J to Reply of City of Encinitas), and providing it to the Board for their consideration. The "Question and Answers" were prepared to address specific issues in the Draft Policy for Board discussion. Both documents included discussion of: (1) near-term specific projects including Encinitas Passing Track; and (2) long-term double tracking of the entire right-of-way. A copy of the "Draft Policy" is attached as Exhibit 3. The Board was never able to reach consensus on adoption of this initial Draft, which included the near-term individual projects.

3. Consequently, staff amended the Draft Policy and prepared a staff report recommending the elimination of the near-term projects from the policy. The staff report is attached hereto as Exhibit 4. At page 5, the staff report explains that all the near-term projects, including the Encinitas track, were eliminated from the Draft Policy for the Board's consideration at its meeting on March 29, 2001.
4. The Board went forward with implementation of this revised Coastal Double Track Implementation Policy. This policy specifically did not include the Encinitas Passing Track. The Board adopted this Policy on March 29, 2001. A copy of the final Policy is attached as Exhibit 5.
5. Based upon my personal involvement in this process, it is clear that the Board never adopted a policy or made a commitment to include the Encinitas Passing Track in its Coastal Double Track Implementation Policy. The Questions and Answers (Exhibit J to the Reply of City of Encinitas) were written pursuant to the initial Draft Policy, which was subsequently revised. They do not relate to the

adopted Policy of the Board. Further, the NCTD Board never made any commitment to prepare an EIR with respect to the Encinitas Passing Track project.

6. The Encinitas Passing Track was not part of the future double tracking project contained in the 2020 Regional Transportation Plan (2020 RTP) and thus was eliminated from the Draft Policy.

Further, affiant sayeth naught.

By: Karen H. King
Date: 1-10-02

Subscribed and sworn to before me
this 10th day of JANUARY, 2002.

Cheryl D. Plontus
Notary Public in and for said
County and State

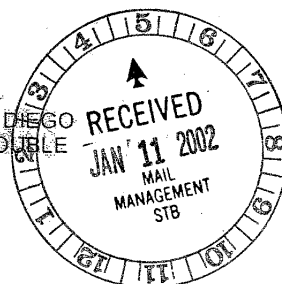


My Commission Expires: DECEMBER 6, 2004

DRAFT

**COASTAL DOUBLE TRACK IMPLEMENTATION
POLICY**

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NORTH SAN DIEGO
COUNTY TRANSIT DEVELOPMENT BOARD TO ADOPT A COASTAL DOUBLE
TRACK IMPLEMENTATION POLICY



RECITALS

Whereas, the North San Diego County Transit Development Board, hereafter referred to as "Board," was created by Senate Bill 802 in 1975 for purposes including, but not limited to the acquisition, construction, and operation of public transit systems and related facilities within the area of its jurisdiction; and

Whereas, the Board is the owner of the Railroad Right-of-Way from the Orange County Line to Del Mar, and the Metropolitan Transit Development Board (MTDB) is the owner of the Railroad within the City of San Diego; and

Whereas, the Board operates, maintains and improves the Right-of-Way portion that it owns and the MTDB portion pursuant to a Shared-Use Agreement with MTDB and the Burlington Northern-Santa Fe Railroad (BNSF); and

Whereas, the Board operates the San Diego - Oceanside Commuter Rail Service (the COASTER) on the Right-of-Way; and

Whereas, the COASTER Commuter Rail Project was the result of considerable study and review, including Regional Transportation Plans and other studies; and

Whereas, SB 1095 (Craven) created the Los Angeles - San Diego (LOSSAN) Rail Corridor Study Group and mandated that the LOSSAN group develop a LOSSAN State Rail Corridor Study and implementing program for incremental upgrading of the existing rail line; and

Whereas, the upgrading program that was developed in this study (dated June 30, 1987) included improvements along the line which would reduce train running times, increase the reliability of service, facilitate additional frequencies for inter-city service, and provide for the introduction of commuter rail service, while maintaining capacity for current freight operations; and

DRAFT COASTAL DOUBLE TRACK IMPLEMENTATION POLICY

Whereas, prior to the purchase of the Right-of-Way, the Board prepared and certified an Environmental Impact Report (EIR) on December 14, 1989, which analyzed the purchase of the Right-of-Way, the commencement of COASTER Commuter Rail Service, and the construction of additional improvements, including stations and track improvements; and

Whereas, the Final COASTER EIR provided that any future double tracking project that could have a potential adverse impact on a sensitive resource (including lagoons, wetland habitat, the Del Mar Bluffs, etc.) would be a separate project and would be the subject of future California Environmental Quality Act (CEQA) review and Board action; and

Whereas, in December 1989, the San Diego Association of Governments (SANDAG) adopted the San Diego - Oceanside Commuter Rail Study, which identified specific improvements toward accomplishing the goals of the LOSSAN Study and implementing the COASTER commuter rail service; and

Whereas, considerable public investment has been made to date in station, track, and other infrastructure improvements pursuant to said plans and environmental reviews; and

Whereas, the Board, has a responsibility to continue to develop and improve COASTER commuter rail services, expand ridership, and provide an attractive alternative to highway facilities toward meeting future regional travel demand, in accordance with the Regional Transportation Plan; and

Whereas, the Board, as an owner of the Right-of-Way, has the contractual obligation to maintain and improve the railroad for use by the National Railroad Passenger Corporation (AMTRAK), the Burlington Northern-Santa Fe (BNSF) Railroad, and the Southern California Regional Rail Authority (SCRRA); and

Whereas, there is a demonstrated need and justification for immediate implementation of double-track projects with which to improve the efficiency and reliability of current train operations; and

Whereas, on February 25, 2000, the San Diego Association of Governments (SANDAG) Board of Directors, the Metropolitan Planning Organization designated and recognized by the state and federal agencies, adopted the 2020 Regional Transportation Plan to meet the future transportation needs of the San Diego Region; and

Whereas the Transit Element of the Regional Transportation Plan includes the double-tracking of the coastal corridor from Oceanside to San Diego (with the exception of the Del Mar Bluffs); and

DRAFT COASTAL DOUBLE TRACK IMPLEMENTATION POLICY

Whereas, the 2020 Regional Transportation Plan, including double tracking the coastal corridor, was the subject of the programmatic EIR certified by SANDAG; and

Whereas, double tracking of the coastal railroad is the principle means to expand and improve commuter rail services to meet the growing travel demand of the I-5 corridor and the region; and

Whereas, the double-tracking projects are funded by the state and federal governments as inter-city/inter-regional rail projects for the benefit of both Coaster and Amtrak service; and

Whereas, to further develop inter-city commuter rail and inter-regional passenger rail service in the San Diego portion of the LOSSAN Rail Corridor in an efficient and coordinated manner, the Board seeks to strengthen its partnership with AMTRAK; and

Whereas, the Board has an affirmative duty to facilitate the development of transportation proposals which represent responsible stewardship of community and natural environmental resources; and

Whereas, the Board has a responsibility to make decisions in the best overall public interest that balance the need for safe and efficient transportation with a project's social, economic, environmental benefits and impacts and the attainment of relevant environmental protection goals; and

Whereas, state and federal laws provide certain exemptions from environmental and regulatory procedures for the implementation of certain railroad improvements; and

Whereas, the Board has determined to pursue environmental review that may exceed legal requirements as a matter of sound regional public policy,

NOW THEREFORE BE IT RESOLVED as follows:

1. Near-Term Right-of-Way Improvement Projects

(a) North County Transit District (NCTD) Lead Projects

That the Board will, pursuant to the LOSSAN State Rail Corridor Study; the SANDAG San Diego – Oceanside Commuter Rail Study; and the subsequent COASTER EIR, in partnership with AMTRAK, continue to expeditiously implement the following near-term double-track improvement projects, based upon the present need to improve the efficiency and reliability of current train operations and independent utility of the projects:

- Sorrento-to-Miramar Second Main Track
- Encinitas Passing Track

DRAFT COASTAL DOUBLE TRACK IMPLEMENTATION POLICY

Whereas, the 2020 Regional Transportation Plan, including double tracking the coastal corridor, was the subject of the programmatic EIR certified by SANDAG; and

Whereas, double tracking of the coastal railroad is the principle means to expand and improve commuter rail services to meet the growing travel demand of the I-5 corridor and the region; and

Whereas, the double-tracking projects are funded by the state and federal governments as inter-city/inter-regional rail projects for the benefit of both Coaster and Amtrak service; and

Whereas, to further develop inter-city commuter rail and inter-regional passenger rail service in the San Diego portion of the LOSSAN Rail Corridor in an efficient and coordinated manner, the Board seeks to strengthen its partnership with AMTRAK; and

Whereas, the Board has an affirmative duty to facilitate the development of transportation proposals which represent responsible stewardship of community and natural environmental resources; and

Whereas, the Board has a responsibility to make decisions in the best overall public interest that balance the need for safe and efficient transportation with a project's social, economic, environmental benefits and impacts and the attainment of relevant environmental protection goals; and

Whereas, state and federal laws provide certain exemptions from environmental and regulatory procedures for the implementation of certain railroad improvements; and

Whereas, the Board has determined to pursue environmental review that may exceed legal requirements as a matter of sound regional public policy;

NOW THEREFORE BE IT RESOLVED as follows:

1. Near-Term Right-of-Way Improvement Projects

(a) North County Transit District (NCTD) Lead Projects

That the Board will, pursuant to the LOSSAN State Rail Corridor Study; the SANDAG San Diego – Oceanside Commuter Rail Study; and the subsequent COASTER EIR, in partnership with AMTRAK, continue to expeditiously implement the following near-term double-track improvement projects, based upon the present need to improve the efficiency and reliability of current train operations and independent utility of the projects:

- Sorrento-to-Miramar Second Main Track
- Encinitas Passing Track

DRAFT COASTAL DOUBLE TRACK IMPLEMENTATION POLICY

(b) CALTRANS Lead Projects

That CALTRANS, having identified and secured funding for projects that would provide benefit to the statewide passenger rail network, will continue, with Board authorization and in partnership with AMTRAK, to expeditiously implement the following near-term, double-track improvement projects:

- San Onofre Passing Track
- Tecolote Creek Track Improvements
- O'Neil-Flores Double-Track

(c) Bridge Projects

That NCTD will, in partnership with AMTRAK, expeditiously repair, rehabilitate and/or replace bridge and related infrastructure as needed to protect and improve the public's safety and investment. Whenever, feasible, said bridges and other infrastructure, if single-tracked, shall be replaced in a manner sufficient to accommodate a second track.

2. Environmental Review of Projects

(a) That the Board, as the lead agency, will, as a matter of policy, conduct project-level environmental reviews pursuant to the California Environmental Quality Act (CEQA) and, if applicable, the National Environmental Policy Act (NEPA) on the two projects identified in paragraph 1(a) and any future projects as the Board may so designate. If the reviews identify significant impacts or public controversy, the Board will prepare and subsequently certify an Environmental Impact Report (EIR) and, if applicable, an Environmental Impact Statement, Environmental Assessment, or other appropriate NEPA documentation. These project-level reviews will utilize and incorporate the programmatic Final Environmental Impact Report for the 2020 Regional Transportation Plan certified by SANDAG on February 25, 2000.

(b) If an EIR is performed, pursuant to paragraph 2(a), it will consider the cumulative impact of train traffic levels that would be enabled by a full, "built out" double-track between the Orange County line and downtown San Diego. Further assumptions would include tunnels under Del Mar and the University City area, consistent with the 2020 Regional Transportation Plan (RTP). Rail traffic levels will be based upon the 2020 RTP projections.

(c) Specifically for the Encinitas Passing Track identified in paragraph 1(a), the environmental review will consider, for the length of the project:

- coastal access and other pedestrian crossing concerns;
- bluff erosion as may be impacted by increased rail traffic;
- additional noise impacts attributed to increased train traffic; and
- an opportunity and constraints analysis of the potential for realignment of the railroad along Interstate 5.

DRAFT COASTAL DOUBLE TRACK IMPLEMENTATION POLICY

3. Coastal Commission Review

The Board, in partnership with AMTRAK, will obtain all appropriate state and federal permits for the projects identified in paragraph 1(a) and any future projects as the Board may so designate. The Board will seek applicable permits and approvals from the California Coastal Commission.

4. Coastal Railroad Corridor Development Plan

That the Board, in collaboration with AMTRAK and CALTRANS, shall conduct a study that evaluates future transportation investment strategies and defines a plan for the further implementation of double-tracking within the coastal rail corridor, between Downtown San Diego and the Orange County line.

The study will identify a small set of promising, cost-effective options with which to implement the double-track alternative identified in the SANDAG 2020 Regional Transportation Plan Transit Element. The study will result in the adoption by the Board of a Plan consisting of specific double-track projects and their conceptual design, and a prioritized, phased program for implementing these projects.

The study shall incorporate and build upon the work of SANDAG's North Coast Transportation Study and 2020 Regional Transportation Plan; the AMTRAK 5-year California Passenger Rail Improvement Plan; the NCTD Strategic Business Plan ("Fast Forward"), and other relevant work efforts. The study process shall incorporate the Del Mar Bluffs Alternative Alignment Study, as identified in the 2020 Regional Transportation Plan, and other pertinent study and/or planning needs.

The study shall be conducted and the Plan developed in a manner as to provide justification, meet requirements, and preserve options for state and federal funding, including environmental review pursuant to CEQA and, if applicable, NEPA. The Study shall generate for certification by the Board a Draft Environmental Impact Report and, as applicable, appropriate NEPA documentation. In order to contribute to more effective and environmentally sound decision-making regarding investment choices and tradeoffs, the study shall provide for early coordination with local agencies and communities and will identify additional project level actions needed to prepare for project implementation.

5. Partnership with Amtrak

That the staff is directed to develop a Memorandum of Understanding (MOU) with AMTRAK, for Board consideration, to define the scope of the aforementioned environmental review; the respective roles and responsibilities of each organization; and the financial participation contributed of each agency.

DRAFT COASTAL DOUBLE TRACK IMPLEMENTATION POLICY

6. Related Funding Matters

(a) That the Board submit a request to the California Transportation Commission (CTC) to reprogram a portion of the \$2.95 million remaining in Proposition 116 funding currently allocated for construction of the Encinitas Passing Track. The request would either 1) reprogram the funds for the project-level environmental review and any additional design and engineering required prior to construction and reserve the remainder for future construction, OR, 2) that the \$2.95 million be reprogrammed to another eligible NCTD project. If reprogrammed, it will be understood that the Encinitas Passing Track would require additional funding from an alternative source (other than State Proposition 116).

(b) That the Board submit a request to the CTC to reprogram \$855,000 in State Transportation Improvement Program (STIP) funding currently programmed in the Fiscal Year 2001 for environmental review and preliminary engineering to replace the San Dieguito River Bridge with a double-track bridge. The request would either reprogram the funds for use in the Coastal Railroad Corridor Development Plan (and its Environmental Review), as identified in paragraph (4), OR, extend the funds for future use for the originally intended project.

(c) That the Board direct staff to prepare a proposed study design, an assessment of staffing needs and other project requirements, a recommended timeline, and a proposed funding plan for the Coastal Railroad Corridor Development Plan (and its Environmental Review), as identified in paragraph (4), for further Board consideration. As this study will require significant financial resources beyond the means of NCTD, the Board will actively seek participation and funding commitments for the study from AMTRAK, CALTRANS, CALIFORNIA TRANSPORTATION COMMISSION, SANDAG, and other potential funding sources.

PASSED AND ADOPTED at the regular meeting of the North San Diego County Transit Development Board on the ____ day of ____, 2000, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

CHAIRMAN, North San Diego County
Transit Development Board

ATTEST:

SECRETARY, North San Diego County
Transit Development Board

FOR BOARD DISCUSSION/POSSIBLE ACTION
AGENDA ITEM D-1

March 29, 2001

TO: North San Diego County Transit Development Board Members

FROM: Martin Minkoff, Executive Director
Karen King, Director of Development and Communications Services

SUBJECT: CONSIDERATION OF A REVISED DRAFT POLICY FOR
IMPLEMENTING DOUBLE-TRACKING IN THE COASTAL RAIL
CORRIDOR AND CONSIDERATION OF ADOPTION OF RESOLUTION
NO. 01-03

STAFF'S RECOMMENDED ACTION:

- 1) That the Board receive and consider comments made regarding the Draft Double Track Implementation Policy, and
- 2) That the Board consider proposed revisions to the Draft Policy, and
- 3) That the Board consider approval of Resolution No. 01-03 to Adopt a Double Track Implementation Policy.

BACKGROUND:

In its adopted FY2001 Work Plan, the NCTD Board of Directors set a number of priorities that relate to the implementation of double-track projects in the coastal rail corridor. Some of these priorities include:

- Develop strategies and approaches for implementing major projects
- Implement funded projects where funding is at-risk
- Participate in regional and corridor-wide planning and decision-making activities
- Develop strategy and resource requirements with which to implement San Diego Association of Governments (SANDAG) 2020 Regional Transportation Plan transit element



To address the priorities above, at the September 7, 2000 Board of Directors meeting, NCTD staff presented a strategy for achieving these priorities in the form of a proposed Draft Coastal Double Track Implementation Policy (Attachment A). On October 5, 2000 the Board took action to release the Draft Coastal Double Track Implementation Policy for public review and comment. The Draft Policy was distributed to the cities within NCTD's service area, the County, SANDAG, MTDB, Caltrans, the Union Tribune and the North County Times. The Draft Policy was also available to the general public at Board meetings and at 810 Mission Avenue. Concurrent with its release, the Board directed that a Revised Draft Policy and comments received, be provided to the Board at a subsequent meeting for further discussion and action. The forty-five (45) day public comment period ended on November 20, 2000. Five individuals or entities formally submitted comments. Comments were carefully reviewed and considered by staff and legal counsel. A summary of comments and responses, followed by copies of the comment letters, is included here as Attachment B.

Following the public comment period, and after receiving comments from other agencies subsequent to the close of the comment period, staff would propose revisions to the Draft Policy. The recommended revisions are presented for the Board's consideration as a Resolution to Adopt a Double Track Implementation Policy, included here as Attachment C.

REVISIONS TO DRAFT DOUBLE TRACK IMPLEMENTATION POLICY:

The initial Draft Double Track Implementation Policy that was circulated for public comment had two key components:

- a comprehensive study for implementing double tracking of the railroad right-of-way in the coastal corridor from the Orange County Line to downtown San Diego consistent with the San Diego Association of Governments (SANDAG) 2020 Regional Transportation Plan, and
- a process for the implementation of currently programmed and funded projects.

Based on comments from the Board and the community, it was clear that trying to address both of these important issues in one policy was overly complicated and confusing. For this reason, it is proposed that the Draft Policy be revised to address these key components separately and in parallel.

Toward that end, a revised Draft Double Track Implementation Policy has been developed for the Board's consideration. This revised Draft would clarify the District's intent to implement the SANDAG 2020 RTP Transit Element and to conduct a comprehensive study of the coastal railroad right-of-way in collaboration with SANDAG, the Metropolitan Transit Development Board (MTDB), Amtrak, Caltrans, the California High Speed Rail Authority and with significant involvement of the affected communities. As described in the revised Draft Double Track Implementation Policy, the study would develop alternative conceptual designs for double tracking the railroad right-of-way and would consider environmental constraints affecting those alternative conceptual designs. The Draft Double Track Implementation Policy would also commit the NCTD, once the study is complete, to the preparation of a Programmatic Environmental Impact Report (EIR) on the study in compliance with the California Environmental Quality Act (CEQA). The study's intended work product would be sufficient to allow the programming of project funds for implementation of double tracking.

With Board concurrence, through the revised Draft Double Track Implementation Policy, NCTD staff would seek to develop a Memorandum of Understanding (MOU) with Amtrak, Caltrans, SANDAG, and MTDB for subsequent Board consideration, to define the scope of the study and Programmatic EIR, including the respective roles, responsibilities, and financial participation of each agency. A cooperative agreement would enable a comprehensive study of double tracking to be advanced concurrently with other planning efforts in the corridor and would allow for these studies to build upon one another and to ensure that cumulative impacts within the corridor are addressed. Caltrans has expressed their willingness to participate in this endeavor and NCTD staff has been exploring with them what process could best effect the desired outcome.

NEAR-TERM PROJECT IMPLEMENTATION:

The second important component of the initial Draft Double Track Implementation Policy was a proposed strategy for implementation of currently programmed and funded projects within the coastal railroad right-of-way, primarily the Encinitas Passing Track Project. Board direction for implementation has been given previously on all currently funded projects, with the exception of the Encinitas Passing Track Project. Due to the number and complexity of issues for consideration on the Encinitas Passing Track Project, staff is not prepared to recommend today a strategy for its implementation. Staff would propose that the Board place discussion of the Encinitas Passing Track Project on a future Board agenda at which time the Board could consider its options concerning the Encinitas Passing Track Project status and direction.

FISCAL IMPACT:

The study has no source of funding identified at this time.

NEXT STEPS:

At such time as the Board would approve the revised Draft Policy, staff would proceed in working collaboratively with the identified agencies to develop the MOU called for by the revised Draft Policy and a funding proposal for the study. NCTD staff is prepared to pursue aggressively the development of the MOU along with the study scope, process and funding proposal, with a goal of presenting a draft MOU to the Board for consideration within sixty days. The draft MOU would then need to be approved by the respective participating agencies.

Attachments

RESOLUTION NO. 01-03

**NORTH COUNTY TRANSIT DISTRICT
DOUBLE TRACK IMPLEMENTATION POLICY**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NORTH SAN DIEGO
COUNTY TRANSIT DEVELOPMENT BOARD TO ADOPT A DOUBLE-TRACK
IMPLEMENTATION POLICY**

RECITALS

Whereas, the North San Diego County Transit Development Board (Board) was created by Senate Bill 802 in 1975 to acquire, construct, maintain and operate public transit systems and related facilities; and

Whereas, the Board acquired the railroad right-of-way from the Orange County Line to the southern Del Mar city limit in 1992 and the Metropolitan Transit Development Board (MTDB) simultaneously acquired the railroad right-of-way within the limits of the City of San Diego; and

Whereas, the Board constructs improvements, maintains and operates the railroad right-of-way within its area of ownership and within the MTDB area of ownership pursuant to a Shared-Use Agreement with MTDB and the Burlington Northern-Santa Fe Railroad (BNSF); and

Whereas, the Board, as an owner of the right-of-way, has the contractual obligation to construct improvements, maintain and operate the railroad for use by the National Railroad Passenger Corporation (AMTRAK), the Burlington Northern-Santa Fe (BNSF) Railroad, and the Southern California Regional Rail Authority (SCRRA); and

Whereas, the Board operates the Coast Express Rail (Coaster) commuter rail service between Oceanside and San Diego on the railroad right-of-way; and

Whereas, the San Diego Association of Governments (SANDAG) is designated and recognized by federal and state agencies as the Metropolitan Planning Organization (MPO) and Regional Transportation Planning Agency for San Diego County; and,

Whereas, the inclusion of public transit services in an integrated regional transportation system provides positive environmental benefits and enhances the quality of life in the San Diego Region as defined in the Regional Growth Management Strategy; and,

Whereas, on February 25, 2000 the SANDAG Board of Directors adopted the 2020 Regional Transportation Plan (RTP) to identify the facilities, services and programs necessary to meet the Region's travel needs through the year 2020; and



Whereas, Section 65080 of the State Government Code specifies that actions by transportation agencies, including transportation development boards, must be consistent with the Regional Transportation Plan; and,

Whereas, the 2020 RTP Transit Element proposes double-tracking the entire railroad right-of-way, with the exception of the Del Mar Bluffs, from Oceanside to San Diego conditional on appropriate environmental impact analyses to evaluate the combined impact of the double-track project; and

Whereas, the 2020 RTP Transit Element proposes tunnels at University City in San Diego and states that realignment of the railroad right-of-way to avoid the Del Mar Bluffs completely, either with a proposed tunnel or other viable alternative, will be evaluated; and,

Whereas, the 2020 RTP additionally proposes grade separation of the railroad right-of-way, where practical, to improve safety and travel speeds; and,

Whereas, it is an Objective of the 2020 RTP that Coaster service should increase from 18 to 48 one-way trips per day by the year 2020 and the 2020 RTP recognizes that a fully double-tracked system would be required to reliably provide this level of service; and,

Whereas, it is an Objective of the 2020 RTP that Coaster travel times between Oceanside and San Diego should be reduced from 60 to 50 minutes and recognizes that a tunnel under University City would be needed to achieve the full travel time reductions; and,

Whereas, it is an Objective of the 2020 RTP that one-way trips between Los Angeles and San Diego should be increased from 22 to 32 per day and the average travel time should be reduced from 2 hours and 45 minutes to 2 hours and 30 minutes by the year 2010; and,

Whereas, the 2020 RTP calls for the California High Speed Rail Authority, Amtrak and the Caltrans Division of Rail to complete their planning studies to prepare a single comprehensive vision for intercity rail passenger service in Southern California; and,

Whereas, the 2020 RTP calls for NCTD, in cooperation with MTDB, Amtrak and the state to proceed with project-level environmental studies, design and implementation of double-track and other rail improvements projects in the Coastal railroad corridor; and,

Whereas, the 2020 RTP calls for NCTD, in cooperation with the City of Del Mar, to evaluate alternative alignments for the railroad in the area of the Del Mar Bluffs; and

Whereas, the 2020 Regional Transportation Plan, including double tracking the railroad right-of-way, was the subject of the programmatic EIR certified by SANDAG; and

Whereas, on December 2, 1999 the Board took action to support the Transit Element of the 2020 RTP with the addition of the statement that realignment of the Railroad right-of-way to avoid the Del Mar Bluffs completely, either with the proposed tunnel or other viable alternative, will be evaluated and such revision was subsequently incorporated; and,

Whereas, to further develop inter-city commuter rail and inter-regional passenger rail service in the San Diego portion of the LOSSAN Rail Corridor in an efficient and coordinated manner, the Board seeks to strengthen its partnership with AMTRAK; and

Whereas, the Board has responsibility to make decisions in the best overall public interest that balance the need for safe, reliable, efficient and cost effective transportation with social, economic and environmental benefits and impacts; and,

NOW, THEREFORE, it is hereby resolved that:

1. The Board shall endorse and actively pursue implementation of the SANDAG 2020 RTP Transit Element, which calls for double tracking of the railroad right-of-way, as it relates to NCTD.

Double Track Implementation Study

2. To actively pursue implementation of the 2020 RTP Transit Element, the Board shall take direct action towards achieving the goal of double-tracking the railroad right-of-way in San Diego County.
 3. The Board shall conduct a study of the railroad right-of-way from the Orange County Line to San Diego for the purpose of developing alternative conceptual designs for double-tracking segments of the railroad right-of-way. The result would be conceptual design of complete double tracking. Environmental constraints shall be considered as a factor affecting alternative conceptual designs. The alternative conceptual designs will be analyzed based on a number of criteria including benefit, improvement on railroad efficiency, effect on railroad operations, potential environmental impacts and cost effectiveness.
 4. In conformance with the 2020 RTP, the Study shall:
 - a. Incorporate the results of an investigation of the realignment of the railroad right-of-way to avoid the Del Mar Bluffs, either with a proposed tunnel or other viable alternative.
 - b. Investigate grade separation of the railroad right-of-way where feasible and cost effective.
 - c. Investigate a tunnel under University City.
 5. The study shall be conducted with early and continuing consultation with the cities located along the railroad right-of-way.
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6. The study shall be conducted in cooperation with SANDAG, MTDB, Amtrak, Caltrans Division of Rail and District 11, California High Speed Rail Authority and Burlington Northern Santa Fe Railroad. The study shall be coordinated with the Southern California Regional Rail Authority.
7. The study shall incorporate and build upon the California Passenger Rail System 20-Year Improvement Plan Technical Report sponsored by Amtrak, the Rail Passenger Program Report 1999-00 to 2008-09 prepared by the Caltrans Division of Rail, the North Coast Transportation Study prepared by SANDAG, the California High Speed Rail Authority's current planning and environmental studies and other relevant work efforts.

Environmental Review

8. Once the study is complete, the Board shall prepare a Programmatic Environmental Impact Report (EIR) on the study in compliance with the California Environmental Quality Act (CEQA).
9. The Board shall, once complete, consider certifying the Programmatic (EIR) and approving the resulting double-track project(s) based on the documentation provided in the Programmatic EIR.
10. The Board's Programmatic EIR would incorporate by reference the 2020 RTP Programmatic EIR certified by the SANDAG Board of Directors.
11. Should the Board, at a time in the future, certify the subject Programmatic EIR and adopt a double-track project(s) for the railroad right-of-way, implementation of each discreet segment of double track, or double track project, would be subject to further CEQA review. If applicable, NEPA review would be undertaken.

Memorandum of Understanding

12. NCTD shall seek to develop a Memorandum of Understanding with Amtrak, SANDAG, MTDB and Caltrans for Board consideration, to define the scope of the aforementioned study and Programmatic EIR, the respective roles and responsibilities of each organization and the financial participation contributed by each agency.

PASSED AND ADOPTED at the regular meeting of the North San Diego County Transit Development Board on the 29th day of Mar, 2001, by the following vote, to wit:

AYES: GOLICH, DRUKER, GUERIN, HARDING, RITTER

NAYES: NYGAARD, WALDRON, HARRIS-EBERT, HORN

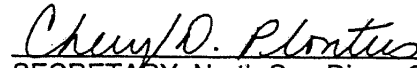
ABSENT: NONE

ABSTAIN: NONE



CHAIRMAN, North San Diego County Transit
Development Board

ATTEST:



SECRETARY, North San Diego County Transit
Development Board