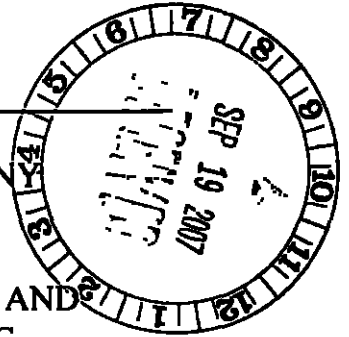


220370

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35073

NORTHWESTERN PACIFIC RAILROAD COMPANY
- CHANGE IN OPERATORS EXEMPTION -
NORTH COAST RAILROAD AUTHORITY,
SONOMA-MARIN AREA RAIL TRANSIT DISTRICT, AND
NORTHWESTERN PACIFIC RAILWAY CO., LLC



ENTERED
Office of Proceedings

OCT - 1 2007

Part of
Public Record

FRIENDS OF EEL RIVER'S PETITION TO REVOKE THE
EXEMPTION FOR NORTHWESTERN PACIFIC RAILROAD
COMPANY

ELLISON FOLK (State Bar No. 149532)
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Tel: (415) 552-7272
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Dated: September 14, 2007

FEE RECEIVED

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SURFACE
TRANSPORTATION BOARD

FILED

OCT - 1 2007

SURFACE
TRANSPORTATION BOARD

**NORTHWESTERN PACIFIC RAILROAD COMPANY
- CHANGE IN OPERATORS EXEMPTION -
NORTH COAST RAILROAD AUTHORITY,
SONOMA-MARIN AREA RAIL TRANSIT DISTRICT, AND
NORTHWESTERN PACIFIC RAILWAY CO., LLC**

Friends of the Eel River, a California non-profit organization, hereby petitions to revoke the exemption ("Notice") for the Northwestern Pacific Railroad Company ("NWPCO"), filed on August 9, 2007. NWPCO proposes to replace the Northwestern Pacific Railway Co., LLC ("NWP") as the operator over segments of railway currently owned by the North Coast Railroad Authority ("NCRA").

1

2. FOER requests that the exemption be revoked on the ground that the Notice is not accurate in its description of the existing level of use of the railway segments that are the subject of the Notice. Specifically, on page 1 the Notice states that NWP “has been operating over the lines ..” that are the subject of the exemption. This statement is not accurate. A large segment of the North Coast Railway has not been operational since 1998 when the Federal Railroad Administration issued Emergency Order No. 21, attached as Exhibit A. This Order prohibited operation of trains on the NWP rail line from mile post 295.5 at Arcata, California to mile post 83.4 between Schellville and Napa Junction, California – an area that includes the segment that is subject to NWPCO’s Notice.

3. The Notice makes no mention of the current prohibition on operation on the North Coast Railway. Indeed, by stating that the NWP “has been operating” the segment, the Notice, at a minimum, implies that the line is currently operational. As a result, the Notice fails to disclose the effect of transferring operation to NWPCO, which has plans to reopen the segment to railway operation. This reoperation of the railway will necessarily result in increase in train traffic in excess of the limits set by 49 C.F.R. 1105.7(c)(5). Therefore, the Notice and transfer of operation cannot be approved without environmental review

4. The Notice also fails to indicate that NWPCO is currently preparing to reoperate that segment of rail line that is subject to the Notice. NWPCO has already published a Notice of Preparation ("NOP") of an Environmental Impact Report under the California Environmental Quality Act ("CEQA"). See Exhibit B. This NOP indicates that with reoperation, the rail line is anticipated to support at least 2 round trips of freight traffic per day. Inasmuch as there is no freight traffic on the current rail line, this represents more than a 100 percent increase over the nonexistent current operations. As indicated in the NOP, this reoperation will result in significant environmental impacts, which are not reflected in the Notice.

5. Based on the foregoing, FOER requests that the exemption be revoked.

Dated: Sept 14, 2007 SIIUTE, MIHALY & WEINBERGER LLP

By: 
Ellison Folk

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Petition to Revoke the Exemption For Northwestern Pacific Railroad Company by facsimile transmission and mailing by prepaid first class mail copies to the following:

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Counsel for Mendocino Railway
and Baywood Partners

Dated at San Francisco, California this 14th day of
September, 2007.



Ellison Folk

EXHIBIT A

Improvements; Extend Runway 2/20; Acquire Snow removal Equipment; Update storm water protection plan; PFC Administration.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs. FAR Part 135 Air Taxi.

Any person may inspect the application in person at the FAA office listed above under FOR FURTHER INFORMATION CONTACT.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Rochester.

Issued in Des Plaines, Illinois, on December 2, 1998.

Bonnie De Leon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region
[FR Doc 98-32733 Filed 12-8-98, 8:45 am]
BILLING CODE 4910-12-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Emergency Order No. 21, Notice No. 1]

Northwestern Pacific Railroad; Emergency Order to Prevent Operation of Trains on Northwestern Pacific Railroad's Trackage From Arcata, California, to Mile Post 63.4 Between Schellville and Napa Junction, California

The Federal Railroad Administration (FRA) of the United States Department of Transportation (DOT) has determined that public safety compels issuance of this Emergency Order requiring the Northwestern Pacific Railroad (NWP) of Eureka, California, to discontinue operation by anyone of trains on the NWP rail line from mile post 295.5 at Arcata, California to mile post 63.4 between Schellville, California and Napa Junction, California until the NWP inspects and properly repairs its track and grade crossing signals, and it trains its employees how to properly maintain the safety of its track and grade crossing signals.

Authority

Authority to enforce Federal railroad safety laws has been delegated by the Secretary of Transportation to the Federal Railroad Administrator. 49 CFR 1.49. Railroads are subject to FRA's safety jurisdiction under the Federal railroad safety laws, 49 U.S.C. 20102, 20103. FRA is authorized to issue emergency orders where an unsafe condition or practice "causes an

emergency situation involving a hazard of death or personal injury" 49 U.S.C. 20104. These orders may impose such "restrictions and prohibitions . . . that may be necessary to abate the situation." (*Ibid*)

Background

The NWP operates on a 286-mile line between mile post 295.5 near Arcata, California and mile post 63.4 between Schellville, California and Napa Junction, California. The North Coast Railroad Authority, a California public agency formed pursuant to California Government Code Section 83000 et seq., owns and operates that portion of the NWP between Healdsburg, mile post 68, and Arcata. Another portion over which the NWP operates and for which it is responsible for maintenance, Healdsburg to mile post 63.4 near Napa Junction, is owned by the Northwestern Pacific Railroad Authority, a joint powers agency representing the Golden Gate Bridge, Highway and Transportation District, the County of Marin, and the North Coast Railroad Authority. Operations are currently being conducted under contract by Rail-Ways, Inc.

The majority of NWP's operations involve the transportation of freight, however, in the past, the railroad also has conducted passenger operations between Willits and Healdsburg. The NWP connects to the California Northern Railroad, another freight railroad, at Schellville. It also connects to the California Western Railroad, which operates both freight and passenger trains, at Willits. The California Western operates over about one mile of NWP trackage in order to interchange freight operations with the NWP at Willits and to reach its passenger terminal in Willits.

The NWP traditionally hauls mostly timber and wood products, but it also hauls some hazardous materials, especially over the portion of the line south of Willits. Maximum authorized train speed on the line is 30 m.p.h., although train speed over that portion of the line affected by Emergency Order No. 14 is restricted to 10 m.p.h.

The NWP is subject to the jurisdiction of FRA. Portions of its operations currently are subject to Emergency Order No. 14 issued on June 7, 1990, when the line of railroad was known as the Eureka Southern Railroad. Emergency Order No. 14 remains in effect from mile post 145.5 near Willits to Ft. Seward, mile post 216.6. It prohibits transportation of passengers until the track complies with class 1 track standards and prohibits transportation of hazardous materials

until the track complies with class 1 track standards or is designated by the railroad as excepted track. Concurrent with this emergency order, FRA is amending Emergency Order No. 14 to prohibit the transportation of hazardous materials until the track complies with class 1 track standards.

Northern Portion, Willits to Arcata

In 1990, FRA became concerned about the track conditions on the NWP, then known as the Eureka Southern Railroad, between Willits and Eureka. At the time, the railroad hauled over the line passengers and liquified petroleum gas, a regulated hazardous material. FRA found that the track between Willits and Eureka did not meet class 1 track standards and posed an immediate threat of death or injury to persons. FRA issued Emergency Order No. 14 under which the Eureka Southern Railroad was prohibited from hauling passengers until the track met class 1 track standards and from hauling hazardous materials until the track either met class 1 standards or was designated by the railroad as excepted. The excepted track provision, found at 49 CFR 215.4, limits the hauling of hazardous materials to five cars per train and places other restrictions on the designated track.

On October 1, 1990, because of improved conditions, FRA lifted Emergency Order No. 14 between mile posts 142.5 and 145.5, near Willits, and between mile posts 216.6 and 284.1, Fort Seward to Eureka. Since 1990, the NWP has complied with the terms of the emergency order for the remainder of the affected area by discontinuing hauling passengers and hazardous materials between Fort Seward and Willits.

The northern portion of the NWP has been subject to flooding for the past several years. Due to flooding which occurred within the last year, the NWP has discontinued operations on the northern portion from Nashwood (mile post 175.5) to Arcata. The railroad continues to operate on the northern portion between Willits and Nashwood. The NWP has applied to the Federal Emergency Management Agency (FEMA) for funding for repair of flood damage that occurred in 1995, 1997 and 1998. As a result of the application, FEMA, with FRA's assistance, recently conducted a survey of track conditions between Willits and Eureka. FEMA has agreed to provide \$1 million to NWP for repair of flood damage.

Southern Portion, Willits to Mile Post 63.4

In 1997, FRA, in partnership with the California Public Utilities Commission

(CPUC), reviewed NWP's compliance with Federal safety statutes and regulations on the portion of the line south of Willits. The review revealed widespread noncompliance similar to noncompliance that FRA and the CPUC previously had discovered on this line in the past several years. In conducting numerous inspections of the NWP in the previous years, FRA and CPUC inspectors identified hundreds of defective track conditions, many of which became the basis for recommendations for civil penalty assessments against the railroad. The railroad frequently failed to make corrections even after defective conditions were identified by FRA or the CPUC.

The review conducted by FRA and CPUC also revealed that the NWP was not performing required periodic tests of its locomotive air brake equipment, and that all of the railroad's locomotives exhibited defective conditions which posed a hazard to the personal safety of NWP personnel operating the equipment. FRA and the CPUC concluded that the NWP was in need of a system-wide program to train its employees to recognize safety violations and to perform necessary repairs promptly and correctly.

On June 11, 1997, representatives of FRA and the CPUC met with NWP's executive director, Dan Hauser, and its general manager, Jack Tremain, as well as two members of the railroad's Board of Directors. The group agreed to and signed a Safety Compliance Agreement under which the NWP would perform specified repairs and employee training by determined deadlines. However, one year after the agreement was executed, the NWP had performed only three of the 11 action items identified by the Compliance Agreement. On June 28, 1998, the Federal Railroad Administrator issued a Compliance Order based mostly upon the terms of the prior Agreement. In summary, the Compliance Order, which remains in effect, directs the NWP to:

1. Cease passenger operations between Willits and Schellville until the track is repaired to class 1 track standards;

2. Limit hauling of hazardous materials between Willits and Schellville to two cars per train, and prohibit hauling of any hazardous materials over trackage that is within 100 feet of a bridge or public road and which does not meet class 1 track standards;

3. Develop and furnish to FRA and the CPUC a track maintenance plan and program,

4. Establish a program of employee training on the Federal Track Standards;

5. Certify abilities of each individual conducting track inspections;

6. Establish a program of employee training regarding inspections of locomotive power and equipment;

7. Certify abilities of each individual conducting inspections of locomotive power and equipment;

8. Certify inspection reports of locomotive power and equipment inspections;

9. Certify that proper repairs have been made of all defects found as a result of locomotive power and equipment inspections;

10. Perform testing on passenger and freight cars relative to single car tests and repair tests.

FRA reviewed NWP's compliance with the Compliance Order in September and October, 1998, and found that the railroad is not following many of the Order's directives. Track inspections conducted by FRA and the CPUC discovered that the trackage within 100 feet of bridges and public road between Willits and mile post 83.4, over which hazardous material are hauled, does not meet class 1 track standards. The railroad has failed to develop a track maintenance program, and it dropped its training of track inspection personnel after only two classes of a 24-class training program. Furthermore, the NWP has an inadequate number of employees who are qualified to inspect track.

Recent Safety Surveys

In light of the NWP's failure to comply with the Compliance Order after several months, FRA and the CPUC surveyed operations on the southern portion of the railroad in September and October, 1998, to assess its overall safety. In October and November, 1998, FRA inspectors accompanied inspectors from the FEMA on surveys of track damage caused by past flooding on the northern portion. In both portions, the inspectors found numerous defects that pose an immediate hazard of death or injury to persons.

Grade Crossing Signals

FRA's regulations addressing grade crossing signal system safety, found at 49 CFR part 234, require railroads to repair, "without undue delay," any essential component of a grade crossing signal that fails to perform its intended function, and until the repair is made, the railroad is to provide alternative measures of safeguarding the crossing. See 49 CFR 234.207. These temporary measures, delineated in 49 CFR 234.105, provide for manual flagging by railroad

personnel whenever a train must occupy a grade crossing where the signals are not properly functioning. Properly functioning grade crossing signals, and temporary flagging in the event of a signal failure, are absolutely essential to the safety of the grade crossing. Trains traveling through a grade crossing, even at very slow speeds, are not able to stop suddenly to avoid a car in the crossing. Therefore, motorists attempting to cross a grade crossing must be adequately warned about a train's approach so that a potentially deadly accident can be averted.

In recent inspections of grade crossings on the NWP and from information provided by the railroad itself, FRA and CPUC inspectors found that 32 of the railroad's 127 grade crossing signals are not operational. While the railroad has instructed train crews to stop and flag each crossing where the signal is out of service, FRA and CPUC inspectors found one instance when a train crew did not perform this safety duty. Furthermore, many of the grade crossing signals have been out of service for several months, in violation of the Federal regulations' requirement to repair the signals "without undue delay."

Many of the grade crossings where the signals are out of service are situated in towns along the NWP line. In Petaluma, one grade crossing serves 23,000 vehicles per day, while another serves 13,000 every day. The NWP operates four to six train movements through these crossings each day, Monday through Friday. At other crossings where the grade crossing signals are out of service, the daily vehicle count ranges from 200 to 6,000. Vehicles in these counts include trucks carrying hazardous materials, including flammable substances.

FRA and CPUC inspectors also found that NWP employees generally lack the supervision, knowledge, test equipment, and supplies necessary to adequately maintain the grade crossing signals. The railroad's two signal maintainers have no signal standards or instructions, nor are they knowledgeable about all necessary signal maintenance. They do not have proper test equipment, such as meters, meggers, relay testers, and shunts. Tests required by FRA's grade crossing safety regulations are past due at all 127 grade crossings, including relay, insulation resistance, and warning tests. In addition, the NWP lacks sufficient parts and materials to adequately maintain the warning system. Numerous NWP circuit plans are out-dated, illegible, or simply non-existent. They need to be corrected,

redrawn, and in some cases, redesigned, yet the railroad lacks procedures to correct or redraw circuit plans.

Track Safety

FRA's track safety regulations, found at 49 CFR part 213, prescribe minimum safety requirements for railroad track. There are six classes of track defining maximum speed and minimum maintenance requirements. By designating track as a certain class, a railroad commits to maintaining that track to the standards established by the track safety regulations for that class. Much of the NWP's trackage from Willits to Schellville is designated as class 2 track. However, the numerous track defects found by FRA and the CPUC, as well as the NWP's apparent lack of commitment to properly repair the track, indicate that much of the track does not meet even the standards for class 1, the lowest class of track.

FRA and the CPUC conducted track inspections on the southern portion of the NWP between September 28 and October 15, 1998. A total of six inspections covered the line from mile post 63.4 between Schellville and Napa Junction to Willits at mile post 139.5. Inspectors identified 298 defective conditions in 148 miles of track. The majority of the defects (234) were defective cross-tie conditions, including defective joint ties and ties not effectively distributed to support 39 feet of track. In many places, the ties were broken, split, or impaired to the extent that they allowed the ballast to work through. They could not hold spikes and they were allowing the tie plates or the base of the rail to move laterally more than a half inch.

These defects pose particularly serious threats to safety. Effective ballast and cross-ties provide the lateral and vertical support of the rail to prevent trains from derailling. Without this support, the track gage, the distance between the inside faces of the rail heads, may become too wide or too tight. Gage that is either wider or narrower than allowed by FRA regulation greatly increases the possibility of derailment due to car or locomotive wheels dropping off the rails.

The FRA and CPUC track inspectors also found 12 areas where water carrying facilities associated with the track were inadequate to perform proper drainage. Two of these drainage facilities are associated with railroad bridges. At one location, a wooden box culvert has collapsed. Under the regulations (49 CFR § 213.23) each drainage facility associated with a track

structure must be kept free of obstruction to accommodate expected water flow for the area it serves. If drainage surrounding the track is not adequate, the condition can lead to wash-outs which will disturb the lateral and vertical support of the rail causing wide or tight gage and possible derailments. Adequate drainage is especially important for the NWP during the winter months when rainfall typically is greater.

Finally, the track safety regulations require that vegetation immediately adjacent to the track bed must be controlled so that it does not pose a fire hazard, obstruct visibility of signs and signals, interfere with railroad employees' trackside duties, prevent proper functioning of signals, or prevent employees from inspecting moving equipment. See 49 CFR 213.37. FRA and CPUC inspectors report that in many areas along the NWP trackage they inspected, the vegetation obstructs any view of the track structure. Some vegetation creates a fire hazard to timber bridges, trestles, and wooden box culverts. Other vegetation obstructs the visibility of signs and signals along the right-of-way and at grade crossings. While vegetation naturally occurs and re-occurs along any railroad track, it cannot be allowed to flourish to the extent that it inhibits the safe operation of the railroad. Vegetation that has been allowed to grow to the point where signals cannot operate properly or cannot be seen, or where it prevents railroad personnel from inspecting the track, or where it becomes conducive to setting fire to bridges and other wooden track structures, poses an imminent threat to the safety to railroad employees and to the traveling public.

Between November 4 and November 13, 1998, FRA and FEMA inspectors surveyed 282 separate locations on the northern portion of the railroad that the NWP identified as storm damaged. The inspectors found numerous locations where proper drainage is not possible because the drainage facilities are plugged or in disrepair or because ditches are plugged, overgrown or inadequate. The area between Willits and Arcata is noted for its constant earth movement, mud flows, slaks and heaves. Most of the repairs that have been made by the NWP to alleviate the flooding problems have been temporary in nature. At some locations, the railroad inserted new culverts to drain water from ponded areas but failed to install the culverts at the correct depth or angle. In numerous locations, the NWP has used plastic and rubber pipe, rather than metal pipe, which is quickly crushed by the weight of work trains. It

is not likely that the drainage facilities in place will be adequate to withstand the next rainy season this winter.

Because of inadequate drainage and poor subgrade, the railroad has difficulty maintaining proper surface and alignment of track. The FRA and FEMA inspectors found numerous locations where the track surface, alignment, and cross-ties were unacceptable for class 1 track standards. In addition, overgrown vegetation at many locations brushes rolling stock and prevents railroad personnel from inspecting the track. In some locations, the vegetation poses a fire hazard to track carrying structures.

Finding and Order

The results of the surveys by FRA, CPUC, and FEMA inspectors of tracks and signals along the NWP line have led FRA to conclude that continued use of this rail line poses an imminent and unacceptable threat to public safety. Furthermore, a past pattern of failure by the NWP to comply with Federal railroad safety laws and regulations persuades FRA that reliance upon the cooperation of the NWP to make the necessary repairs to the track and to the signals on any part of its rail line is inadequate to protect public safety. I find that the unsafe conditions discussed above create an emergency situation involving a hazard of death or injury to persons. Accordingly, pursuant to the authority of 49 U.S.C. § 20104, delegated to me by the Secretary of Transportation (49 CFR § 1.49), it is ordered that the Northwestern Pacific Railroad shall discontinue, and shall not permit, the operation of trains over its trackage between mile post 285.5 near Arcata and mile post 63.4 between Schellville and Napa Junction while this Emergency Order remains in effect. This Emergency Order is not meant to prohibit the operation of work trains operated for the specific and sole purpose of effecting repairs on the railroad. Maximum speed of such train movements shall be 10 m p h.

Relief

The NWP may obtain full relief from this Emergency Order by performing the following requirements.

(1) Properly repair and inspect all grade crossing signals and certify to the Federal Railroad Administrator that all necessary repairs and inspections have been performed and that all required tests are up-to-date.

(2) Adopt a set of grade crossing signal standards and instructions acceptable by FRA. The standards and instructions should be submitted in writing to the Regional Administrator

for Region 7 who will notify the NWP within 14 days of the submission whether or not the standards and instructions are approved. If they are not approved, the Regional Administrator will describe what additional measures must be taken to secure approval.

(3) Update, correct and/or redraw circuit plans for each grade crossing signal system to meet compliance with 49 CFR §§ 234.201 and 234.203. A list of locations of the updated, corrected or redrawn circuit plans should be submitted to the Regional Administrator for Region 7.

(4) Provide proper and adequate test equipment for signal maintainers.

(5) Repair all track not subject to Emergency Order No. 14 to class 1 track standards as detailed in 49 CFR Part 213. (Note: Emergency Order No. 14 already requires the Northwestern Pacific Railroad to repair all track subject to that order to class 1 track standards or designate the track as excepted track in accordance with 49 CFR 213.4. By separate notice, Emergency Order No. 14 is being amended to require repair to class 1 track standards for the hauling of passengers and all hazardous materials. Otherwise, the railroad may designate the track still subject to that order as excepted.)

(6) Clear all vegetation from drainage facilities and away from signs and signals and track bed so that the track meets the requirements of 49 CFR 213.37.

(7) Furnish FRA with a 12-month track maintenance plan that includes, at a minimum the number and location (mile by mile) of crossties to be installed, location and extent of rail surfacing, location and nature of drainage facility maintenance, location and nature of vegetation control, extent of rail replacement, schedule for accomplishing programs, and criteria used to determine the location and extent of tie renewal and replacement (e.g., traffic density, track inspection data, and accident history).

(8) Establish a program of employee training on the Federal Track Standards to ensure that employees performing inspection, maintenance, and restoration work are qualified in accordance with 49 CFR 213.7. The training program shall ensure that track inspectors, track foremen, and first level track supervisors can assure compliance with the requirements of 49 CFR part 213. FRA is to be furnished a copy of the training program.

(9) Certify in writing that each individual conducting track inspections has sufficient knowledge, skills, and

ability to successfully conduct the types of inspections which will be performed by that individual. Records of that certification are to be maintained by the railroad.

(10) Obtain approval from the Federal Railroad Administrator that all of the requirements of this Emergency Order have been met and properly performed. To obtain relief, NWP should inform in writing the Federal Railroad Administrator, with a copy to the Regional Administrator of FRA's Region 7, that it believes all of the requirements of this Emergency Order have been met. Within 30 days of the notification, FRA will conduct inspections of the line, and within seven days of the inspections, will inform the railroad in writing whether this Emergency Order is lifted. If FRA does not lift the order, the written responses will specifically describe what additional measures need to be taken to meet all of the requirements of this Emergency Order.

Partial Relief

In order for FRA to consider granting partial relief from this Emergency Order, the NWP must first meet all of the system-wide requirements, i.e., requirements 2, 4, 7, 8, and 9. The NWP may then obtain partial relief for any portion of the line for which all of the requirements of this Emergency Order are met. NWP should inform in writing the Federal Railroad Administrator, with a copy to the Regional Administrator of FRA's Region 7, that it believes all of the requirements of this Emergency Order have been met for a specified section of the railroad's line. Within 30 days of the notification, FRA will conduct inspections of that specified portion of the line, and within seven days of the inspections, will inform the railroad in writing whether this Emergency Order is lifted for that specified portion. If FRA does not lift the order for the specified portion, the written response will specifically describe what additional measures need to be taken to meet all of the requirements of this Emergency Order.

Penalties

Any violation of this order shall subject the person committing the violation to a civil penalty of up to \$22,000, 49 U.S.C. 21301. FRA may, through the Attorney General, also seek injunctive relief to enforce this order. 49 U.S.C. 20112.

Effective Date and Notice to Affected Persons

This Emergency Order shall take effect at 5 01 p.m. (PST) on November 27, 1998, and apply to all operations of

trains on or after that time. Notice of this Emergency Order will be provided by publishing it in the Federal Register. Copies of this Emergency Order will be sent by mail or facsimile prior to publication to: Northwestern Pacific Railroad Authority through the North Coast Railroad Authority Board of Directors, the Golden Gate Bridge, Highway and Transportation District, and Marin County. A copy will also be sent to Rail-Ways, Inc.

Review

Opportunity for formal review of this Emergency Order will be provided in accordance with 49 U.S.C. 20104(b) and section 854 of Title 5 of the United States Code. Administrative procedures governing such review are found at 49 CFR part 211. See 49 CFR 211.47, 211.71, 211.73, 211.75, and 211.77.

Issued in Washington, D.C. on November 25, 1998.

Jelena M. Malitcka,
Administrator

[FR Doc 98-32649 Filed 12-9-98; 8 45 am]
GILLES COOK 4910-00-0

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Emergency Order No. 14, Notice No. 6]

Northwestern Pacific Railroad;
Amendment to Prohibit the
Transportation of Hazardous Materials
between Willits, California and Ft.
Seward, California

The Federal Railroad Administration (FRA) of the United States Department of Transportation (DOT) has determined that public safety compels issuance of this amendment to Emergency Order No. 14 prohibiting the Northwestern Pacific Railroad (NWP) of Eureka, California, from transporting, or permitting anyone to transport, hazardous materials over any track from mile post 145.5 near Willits, California to mile post 216.6 near Ft. Seward, California.

Background

FRA issued Emergency Order No. 14 on June 7, 1990, when the railroad was known as the Eureka Southern Railroad. The Emergency Order prohibits transportation of passengers until the track complies with class 1 track standards and prohibits transportation of hazardous materials until the track complies with class 1 track standards or is designated by the railroad as excepted track. The Emergency Order originally covered the rail line from Willits to

EXHIBIT B

**INITIAL STUDY
NORTH COAST RAILROAD AUTHORITY
RUSSIAN RIVER DIVISION
FREIGHT RAIL PROJECT**

Prepared for:



Prepared by:

KLEINFELDER

**5015 Shoreham Place
San Diego, California 92122
(858) 320-2000**

July 2007

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FIGURES

- Figure 2-1 Project Location Map
Figure 2-2 Number of Freight Trains and Their Cars at Various Locations along the Rail Corridor

ACRONYMS AND ABBREVIATIONS

BMPs	best management practices
BCDC	Bay Conservation and Development Commission
CD	Consent Decree
CE	Categorical Exemption
CEQA	California Environmental Quality Act
CPUC	California Public Utilities Commission
CWA	Clean Water Act
DFG	Department of Fish and Game
DTSC	Department of Toxic Substances Control
EIR	Environmental Impact Report
ERD	Eel River Division
FRA	Federal Railroad Administration
IS	Initial Study
LOMA	Locomotive Operations and Maintenance Area
NCRA	North Coast Railroad Authority
NCRWQCB	North Coast Regional Water Quality Control Board
NBI	North Bay, Inc.
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NWP	Northwestern Pacific Railroad
NWPRA	Northwestern Pacific Railroad Authority
OHP	Office of Historic Preservation
RRD	Russian River Division
RWQCB	Regional Water Quality Control Board
SLC	California State Lands Commission
SMART	Sonoma-Marin Area Rail Transit
SPCC	spill prevention, control, and countermeasures plan
SWPPP	Storm water pollution and prevention plan
UBC	Uniform Building Code
USACE	US Army Corps of Engineers
USFWS	US Fish and Wildlife Service
WMP	waste management plan

1.0 INTRODUCTION AND OVERVIEW

This Initial Study has been prepared by Kleinfelder on behalf of the North Coast Railroad Authority (NCRA), pursuant to California Environmental Quality Act (CEQA) Guidelines, Section 15063. NCRA has proposed this project to resume freight rail service from Willits, Mendocino County to Lombard, Napa County. The following Initial Study has been prepared in order to address potential impacts associated with the proposed project, which includes operations and features supporting operations.

The Initial Study contains the following: project description; the potential environmental impacts associated with the project; and mitigation measures to reduce impacts to less than significant levels. In summary, potential significant environmental impacts associated with the project have been identified, and therefore, an Environmental Impact Report (EIR) will be prepared under CEQA.

The proposed project corridor extends approximately 142 miles from Willits in Mendocino County, California southward to Lombard in Napa County. The rail corridor, commonly known as the Northwestern Pacific Railroad (NWP), generally parallels US 101 running north-south in Mendocino, Sonoma and Marin counties. In Novato, Marin County, the rail corridor turns east and runs along California Highways 37 and 121 to Lombard, Napa County. Freight service will not extend south of the US 101 interchange with California Highway 37. Additionally, this project does not propose nor authorize freight service north of Willits.

Mendocino, Sonoma, Marin, and Napa counties are located on the west coast of California north of San Francisco. In Mendocino County, the incorporated local jurisdictions in the proposed project corridor include the Cities of Willits and Ukiah. In Sonoma County, the incorporated local jurisdictions in the proposed project corridor include the Cities of Cloverdale, Healdsburg, Windsor, Santa Rosa, Rohnert Park, Cotati and Petaluma. In Marin County, the incorporated local jurisdiction in the project corridor includes the City of Novato. The Napa County portion of the project does not traverse any city boundaries and is completely in unincorporated County lands.

This Initial Study was prepared in compliance with the CEQA of 1970 (as amended) and the CEQA Guidelines.

2.0 PROJECT DESCRIPTION

The North Coast Railroad Authority (NCRA) is proposing to resume rail service over the Russian River Division (RRD) of the Northwestern Pacific Railroad (NWP). The NWP is an existing railroad that has provided rail service dating back to the early 1900's. The RRD of the NWP is approximately 142 miles long extending from Willits in Mendocino County, California to Lombard, Napa County, California. This rail corridor runs parallel to U.S. Highway 101 corridor through Mendocino, Sonoma, and Marin counties to Novato, California. At Ignacio, south of Novato, the rail corridor runs east/west along CA Highways 37 and 121 near the north shore of San Pablo Bay, to Lombard, north of the City of American Canyon, where the NWP connects to the currently operating California Northern Railroad.

NCRA was formed in 1989 by the California Legislature under the North Coast Railroad Authority Act, Government Code Sections 93000, *et seq.* The Act was intended to ensure continuation of railroad service in Northwestern California and envisioned a railroad playing a significant role in the transportation infrastructure serving a vital part of the State that suffers from restricted access and limited transport options. In 1992, the state purchased the Eel River Division (ERD) of the NWP. In 1996, NCRA purchased the segment of the railroad line from Willits to Healdsburg, including a perpetual easement to operate rail freight service between Healdsburg and Lombard.

Currently, the NWP Line from Willits to Healdsburg is owned by NCRA, and from Healdsburg to Lombard is owned by the Sonoma-Marina Area Rail Transit (SMART) District. NCRA has a perpetual freight service easement over SMART right-of-way, and SMART has a perpetual passenger service easement over the portion of the right-of-way owned by NCRA between Healdsburg and Cloverdale. SMART's enabling legislation (Assembly Bill (AB) 2224) provides that the District must work with NCRA and the FRA "to achieve safe, efficient, and compatible operations of both passenger rail and freight service along the rail line in Sonoma and Marin Counties." Coordination of SMART's passenger rail service and NCRA's freight service is governed by an existing Operating Agreement, which generally provides that freight service shall be subordinate to passenger rail service. Prior to the institution of commuter service a coordination agreement will be negotiated with SMART to address dispatching trains and related issues.

2.1 PROJECT OBJECTIVE, PURPOSE AND NEED

This section summarizes the project objectives, purpose, and need; describes the history of development of the proposed project and existing characteristics of the project corridor; provides a description of the project's operational components; and establishes the basis for the environmental analysis.

NWP Co., NCRA's selected rail operator, proposes to resume the operations of freight service in the rail corridor from Willits to Lombard for transport of general freight to serve the communities in the rail corridor. In this rail corridor, NWP Co. could also transport solid waste to landfills beyond the four-county area, replacing the truck hauling currently used for this service. The project does not propose the transport of hazardous waste, dangerous, highly flammable or explosive material. This area has historically been serviced by the railroad and this project will reestablish reliable and cost effective service to the businesses and public utility entities within the service area, and resumes service to former customers whose businesses have been adversely impacted by the lack of service

The need for a renewed reliable freight service in Mendocino, Sonoma, Marin, and Napa Counties is apparent by the rapidly growing congestion and truck traffic along U.S. Highway 101 from Willits to Novato, and on CA Highway 37 that connects U.S. Highway 101 in Novato to Interstate Highway 80 in Solano County. The capacity of the highway system to accommodate quick and cost-effective commercial truck traffic has not kept pace with the growth of travel demand in this area, and this trend is expected to continue in the future in spite of several major highway improvement projects that are currently in progress. Reestablishing the rail service will help reduce the truck traffic on the local highways and community roads

The need for a cost-efficient, alternative method of transportation to deliver commercial goods and freight in the area is supported by

- o Capacity constraints on existing systems, particularly U.S. and CA Highways 101, 121, 37, and 12 that result in travel delays and congestion. The rail service would remove a portion of the current commercial truck traffic on the roadways thus reducing traffic congestion "Depending on the density of the commodity, one railcar may move the same weight or volume as four or five trucks." Freight-Rail**

Bottom Line Report, American Association of State Highway and Transportation Officials, January 2003, p. 26)

- Increasing unreliability and safety concerns of existing travel modes due to congestion, inclement weather, and accidents. A reduction in the number of commercial trucks on the local roadways will result in increased safety on the roads.
- The absence of four-lane highways and freeways connecting U S Highway 101 with Interstate Highway 80.
- By removing a portion of the current commercial (freight including solid waste) truck traffic on the roadways, rail service would decrease diesel emissions from trucks, resulting in a net improvement in air quality and reduction in greenhouse gas emissions. Movement of freight on rail is measurably more efficient. One ton of goods can be moved more than 400 miles with one gallon of fuel according to the Association of American Railroads' Railroad Facts, 2003 Edition.

The purpose of the proposed project is to provide efficient, reliable, and cost-effective rail service in Mendocino, Sonoma, Marin, and Napa counties. The following project objectives have been identified to achieve this goal:

- Provide an alternative transportation option to trucking for commercial freight across the four-County area.
- Provide an alternative transportation option to trucking for hauling solid waste across the four-county area.
- Provide an alternative cost-effective option to the disposal of solid waste in local landfills.
- Fulfill the State mandate to provide the continuation of railroad service to Northwestern California and help alleviate the growing concerns for efficient goods movement.

2.2 PROJECT LOCATION

The proposed project corridor extends approximately 142 miles from Willits in Mendocino County, California southward to Lombard in Napa County. Mendocino, Sonoma, Marin and Napa counties are located on the west coast of California north of

San Francisco. In Mendocino County, the incorporated local jurisdictions in the proposed project corridor include Willits and Ukiah. In Sonoma County, the incorporated local jurisdictions in the proposed project corridor include Cloverdale, Healdsburg, Windsor, Santa Rosa, Rohnert Park, Cotati and Petaluma. In Marin County, the incorporated local jurisdiction in the project corridor includes Novato. Freight rail service will not pass through any incorporated jurisdiction in Napa County.

A map of the proposed project corridor is shown in Figure 2-1.

2.3 OVERVIEW OF NWP HISTORY AND FACILITIES

2.3.1 History of the NWP Facilities (Russian River and Eel River Divisions)

The NWP was created in 1907 through the consolidation of six separate railroad companies held by the Santa Fe and Southern Pacific railroads.

Prior to 1907, rail service from Eureka to San Francisco was not possible because of the 106-mile gap within the Eel River canyon. In January 1907, the Southern Pacific and the Santa Fe formed the jointly-owned NWP, and agreed to build the last segment of the line. The articles of incorporation stipulated that the two companies would take turns managing the line in alternate years. Eight years later, in October, 1914 the Eel River section was completed and the cities of Eureka and San Francisco celebrated the achievement with a gold spike ceremony at Cain Rock, four miles south of Alderpoint.

In 1984, ownership of the NWP was split at Willits between two organizations. The Southern Pacific Railroad operated the RRD, while the ERD between Willits and Arcata was sold to the Eureka Southern Railroad. Between 1984 and 1996, the ERD of the NWP and the RRD of the NWP were operated separately as two distinct and economically independent rail lines serving their respective regions.

NCRA was formed in 1989 by the California Legislature under the North Coast Railroad Authority Act to ensure continuation of railroad service in Northwestern California. Although it was chartered by a state mandate, only the acquisition of the then ERD was funded by the State and no operating funding was provided at the time of acquisition.

In 1992, NCRA purchased the ERD. A separate transaction in 1996 added the portion of the RRD between Healdsburg (Sonoma County) and Willits to NCRA's holdings. In 1993, NCRA; the Golden Gate Bridge, Highway, and Transportation District (Bridge District); and Marin County set up a joint-powers authority called the Northwestern Pacific Railroad Authority (NWPRA). This public-private partnership took over the ownership of rail facilities and tracks along the RRD between Healdsburg and Lombard (Napa County) where the railroad then connects to the national rail network through the California Northern Railroad.

Freight service and related maintenance of this portion of the NWP became the responsibility of NCRA under an agreement with NWPRA dated August 19, 1996. Until 1998, freight service operated twice daily along the NWP, carrying mainly natural resource products. Both the Russian River and Eel River Divisions became inoperable as a result of damage sustained during the winter storms of 1997-1998.

Once NCRA completed essential disaster-related repairs to the RRD, commercial freight service resumed between Lombard and Penngrove, Sonoma County, in January 2001. However, service was temporarily discontinued in September 2001 because the operator lacked capital to continue operations. Subsequently, NCRA identified additional repairs, and maintenance and infrastructure improvements that would be necessary to restore facilities on the RRD. Meanwhile, the repair of the ERD continued to be delayed due to the lack of funding required for extensive repairs.

In 1997, the Sonoma County Transportation Authority and Marin Planning Agency conducted a study that recommended that a commission be formed to guide the design and implementation of passenger train service. In 1998 the Counties of Sonoma and Marin formed the SMART Commission to carry out this direction. On January 1, 2003 the Sonoma-Marin Area Rail District was created with the passage of California State Assembly Bill 2224. The district consolidated the existing SMART Commission, NWPRA, and the Golden Gate Bridge, Highway and Transportation District Authority and assets over the rail corridor into a single rail district. The ERD is not part of this rail district.

The NWP from Healdsburg to Lombard is owned by the SMART District. NCRA has a perpetual freight service easement over SMART right-of-way between Healdsburg and Lombard, and SMART has a perpetual passenger service easement over the portion of

the right-of-way owned by NCRA between Healdsburg and Cloverdale. AB 2224 provides that SMART must work with NCRA and the FRA "to achieve safe, efficient, and compatible operations of both passenger rail and freight service along the rail line in Sonoma and Marin Counties."

2.3.2 Current Status and Operational Issues

The rail line is an operating railroad per the Surface Transportation Board (STB), and it will be operated by NWP Co. However, rehabilitation of the line is required before trains may safely resume operations on the line. Rehabilitation activities are necessary to bring the rail line into conformance with FRA Class 2/3 standards, and to address safety issues identified in FRA Emergency Order No. 21. The rehabilitation activities are being funded by the State and investments by the operator.

As NCRA's rail operator, NWP Co. will be required to be in compliance with a Consent Decree that was signed by the North Coast Regional Water Quality Control Board (NCRWQCB), Department of Toxic Substance Control (DTSC), and Department of Fish and Game (DFG). The Consent Decree, among other things, requires that NCRA prepare and implement plans to clean up existing waste (currently scattered rail ties), conduct all rail operations in accordance with State environmental laws, and to handle, manage, store, transport, and dispose of hazardous materials and waste in a manner that is protective of human health and the environment.

2.3.3 Existing Facilities of the Russian River Division

Description of the Rail Corridor Alignment

The NCRA rail corridor extends approximately 142 miles from Willits in Mendocino County, California southward to Lombard in Napa County. From Willits the line runs southward generally following Highway 101 through the towns of Redwood Valley, Calpella, Ukiah, Hopland, Cloverdale, Geyserville, Healdsburg, Windsor, Santa Rosa, Rohnert Park, Cotati, Petaluma, and Novato. South of Novato, at Highway 37, the line runs eastward near the shore of San Pablo Bay, over the Petaluma River, past Black Point, past the old station at Shellville, over the Napa River, and terminates in Lombard north of the city of American Canyon. Freight service will not extend south of Highway 37 along the Highway 101 corridor. Additionally, this project does not propose nor authorize freight service north of Willits.

Mainline Track, Sidings, & Spur Tracks

The RRD consists of one mainline track and sidings and the sidings are strategically placed along the mainline for train meets (train passing) and temporary storage. It is anticipated that these sidings will be used for the same purposes during the proposed operations.

Rail Yards, Stations and Maintenance Facilities

Along the rail line are a number of former railroad stations, a maintenance and switching yard at Willits, and a storage facility at Cloverdale.

Stations

The majority of the railroad stations are planned to be renovated by SMART, in the future, to be used in conjunction with their proposed passenger rail service. NWP Co does not plan to use any of these stations for operations.

Willits Yard

The former Willits Yard is located in the northern part of the town of Willits. For much of the railroad's history this site was the primary location for major repairs and maintenance of rail equipment, engines, and refueling operations. At one time, the Yard had several structures for administrative purposes, a rail depot, a roundhouse for engine repair, and two Bunker-C above ground storage tanks.

The RRD will not use the Willits Yard for major repairs or maintenance. The operator will contract with existing modern facilities outside the RRD right of way for major repair and maintenance. The Willits Yard will be used for train switching, storage, and for light repairs and light maintenance.

The Willits Yard was also a major switching station for the line. The Yard includes several yard tracks, three of which are over a mile in length.

Cloverdale Depot and Maintenance Facility

Two modern facilities are present along the line east of downtown Cloverdale. The first is a modern passenger train depot that includes a small office. Just north of the depot is a modern maintenance building used primarily for equipment storage and minor repairs.

and servicing of NCRA maintenance-of-way equipment NWP Co plans to use this facility for similar purposes.

Grade Crossings, Tunnels and Bridges

There are 104 wood, asphalt, gravel, or concrete road crossings along the rail line between Willits and Lombard Several of these have been repaired or upgraded in recent years.

Signals and gates are present at major crossings and intersections, and these are currently being repaired or replaced to meet FRA and CPUC standards, and to be compatible with possible future upgrades by SMART Depending upon the volume of traffic and type of road, the crossings will have various warning devices Railroad locomotive horns will blow at crossings to be in compliance with FRA safety regulation requirements.

There are 121 bridges and 5 tunnels located between Willits and Lombard. Most of the bridges are small wood trestle structures that span drainage channels or creeks feeding the Russian River, Petaluma River, and San Pablo Bay. Several steel bridges are present as well the Russian River bridge at Healdsburg, the Haystack Landing bridge crossing the Petaluma River in Petaluma, the Black Point bridge crossing the Petaluma River near Black Point east of Novato, the Wingo Bridge crossing an inlet creek in the former town of Wingo, and the Brazos vertical lift bridge crossing the southern Napa River See Section 2.5 for details on proposed bridge rehabilitation.

2.4 PROPOSED OPERATIONS

2.4.1 Frequency and Size of Trains

The proposed project will include general railroad freight service (to and from customers along the line) and potential hauling of solid waste.

The start up phase of reestablishing freight service operation is anticipated to begin in April 2008 and will consist of three round trips per week (three north bound and three south bound). The number of cars per train is estimated to be fifteen cars

As the freight service becomes established, it is anticipated that the economics of the region could support an increase in the number of trains to two round trips per day (two north bound and two south bound), six days a week. The number of cars per train is estimated to be 25 cars for one round trip and 60 cars for the other round trip. The 60-car train would go from Willits to Lombard. The other trains would initiate with 10 cars in Willits and increase to up to 25 cars from Redwood Valley to Lombard.

Reestablishing freight service in the region may involve the addition of a train providing solid waste hauling services for the area. Although speculative at this point, the train could run from Santa Rosa to the Cal Northern connection at Lombard. The solid waste services could involve one round trip per day (one north bound and one south bound), six days a week. The number of cars per train is estimated to be 60 cars. The railroad operator could load and unload highway trailers that contain solid waste on railroad flat cars using sidings and ramps. Although this potential is speculative, the impacts are being analyzed at this time so that the possible impacts can be considered.

The train size and volumes are based on an analysis by NWP Co., the operator of the rail line. Figure 2-2 provides a diagram of the total train movements associated with both general freight traffic and potential solid waste hauling once rail service is recontinued. Figure 2-2 shows the train movements that will be analyzed in the EIR.

2.4.2 Facilities

Use of Existing NCRA Facilities Located Adjacent to the Railroad

It is planned that NWP Co. will use some of the existing areas located within their potential rail customers' facilities for the parking of engines and rail cars, switching, and light running maintenance and fueling of diesel engines and support equipment. When necessary, the support equipment for the railroad will be upgraded or revitalized to assure reliability and compliance with current regulations.

When fueling along the line is necessary, it will be conducted by transferring fuel directly from a tanker truck to the railroad diesel locomotives. No above ground or underground storage tanks will be constructed. Tanker trucks will access the line along access roads that are present throughout the line. Fueling will be conducted in compliance with State

and Federal laws, the Consent Decree, and in conformance with NCRA's Best Management Practices (BMPs)

Light running maintenance includes minor servicing activities such as brake repair, minor engine repair, oil changes, and other scheduled servicing tasks. Servicing activities will involve storage and handling of relatively small amounts of petroleum-based hazardous materials, particularly oil, waste oil, grease, and small amounts of diesel fuel. These materials will be stored, handled, and disposed of in accordance with Federal and State regulations, and an environmental Consent Decree (see Chapter 3.5-Hazardous Materials) Anticipated work plans include a waste management plan (WMP), storm water pollution and prevention plan (SWPPP), and a spill contingency plan.

Locomotives and other heavy equipment will be transported to offsite railroad maintenance facilities for routine and major scheduled and non-scheduled repairs and servicing

New Facilities

Major scheduled and non-scheduled repairs and servicing will be conducted off the project site in existing facilities; therefore, no additional maintenance yards or fueling stations will need to be constructed. Additional sidings are not necessary prior to the start-up of freight service except for the construction of a one mile siding between MP 1 and MP 2 to allow interchange with the Cal Northern line near Lombard. A new embankment will be constructed requiring up to 4 feet of material, a concrete box will be installed for drainage purposes, and rail and ties will be added. It is anticipated that the addition will require permits for the importation of clean fill material by rail, construction of the embankment and rail line, and placement of the drainage box. This document is written assuming that NCRA begins freight service before SMART begins passenger service. If the SMART project is approved and funded, additional sidings to handle train meets would be necessary and are contemplated by SMART and its EIR

2.5 PROPOSED REHABILITATION ACTIVITIES

NCRA is performing rehabilitation of its track, signals, embankments, and bridges in order to raise the line to the required safety standards. A Categorical Exemption under CEQA was approved to allow routine rehabilitation and repairs of the rail line within the

rail right-of-way, including signal upgrades, bridge and culvert repair, new rails and roadbed improvements. One bridge which requires repair and two other repair sites where severe erosion within creeks have occurred may cause a significant impact and therefore will be analyzed in this EIR. The three repair sites are summarized below.

2.5.1 Black Point Bridge

The Black Point Bridge is a steel through truss swing span bridge built in 1911 across the Petaluma River at Black Point, east of the city of Novato. In its open position, the bridge is parallel to the River allowing ships and barges to navigate between pile-supported fenders on either side of the River. When a train needs to cross the River, the bridge rotates over the River and connects the rail line by a motor-driven center pivot.

Planned repairs to the bridge include splicing piles, repairing drifting piles, replacing bracing and caps, repairing concrete at the east landing pier, and replacing the mechanical and electrical systems of the swing span. The work will be conducted *in situ* using a barge that will be docked against the bridge.

2.5.2 Bakers Creek

At Bakers Creek, North of Redwood Valley, the line is built on an embankment fill about 50 feet high. During a very intense rain storm in the winter of 2005-2006, the culverts under the fill became plugged or could not effectively pass the large quantity of runoff. As a result, water dammed behind the embankment, causing the embankment to fail.

Engineered plans for repair of the embankment will not be finalized until consultation with the DFG, the NCRWQCB, and other agencies are completed. For the purpose of this EIR, it is assumed that the repair of the embankment will occur off-winter when Bakers Creek is dry. Clean imported fill material will be transported by rail, and a new embankment will be constructed in kind, including the installation of a new culvert. Because failure of the embankment introduced silt into Bakers Creek, it is likely that some form of stream restoration permit or agreement will be required.

2.5.3 Foss Creek

Foss Creek is a small feeder creek that flows into the Russian River north of Healdsburg. At one location where it runs sub-parallel to the rail line, the creek abandoned its course for about 30 feet of its length, shifted about 10 feet to the east,

and scoured the railroad embankment. As in the case of Baker Creek, the final engineered plans for repair of the embankment will not be finalized until appropriate consultation with the regulatory agencies is completed. It is assumed that the repair will require permitted restoration of the creek to its original course and character, importation of clean fill material by rail, reconstruction of the embankment and rail line, and the placement of scour protection- likely rip rap- along the base of the embankment to prevent scour during high flows.

2.6 CUMULATIVE BASELINE

CEQA requires that impacts of cumulative projects be considered in the EIR. The project may have environmental effects that are individually limited, but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects and the effects of probable future projects. The identification of probable future projects will be based on the standards of practicality and reasonableness. Probable future projects include unapproved projects that are undergoing environmental review at the time that the NOP is submitted.

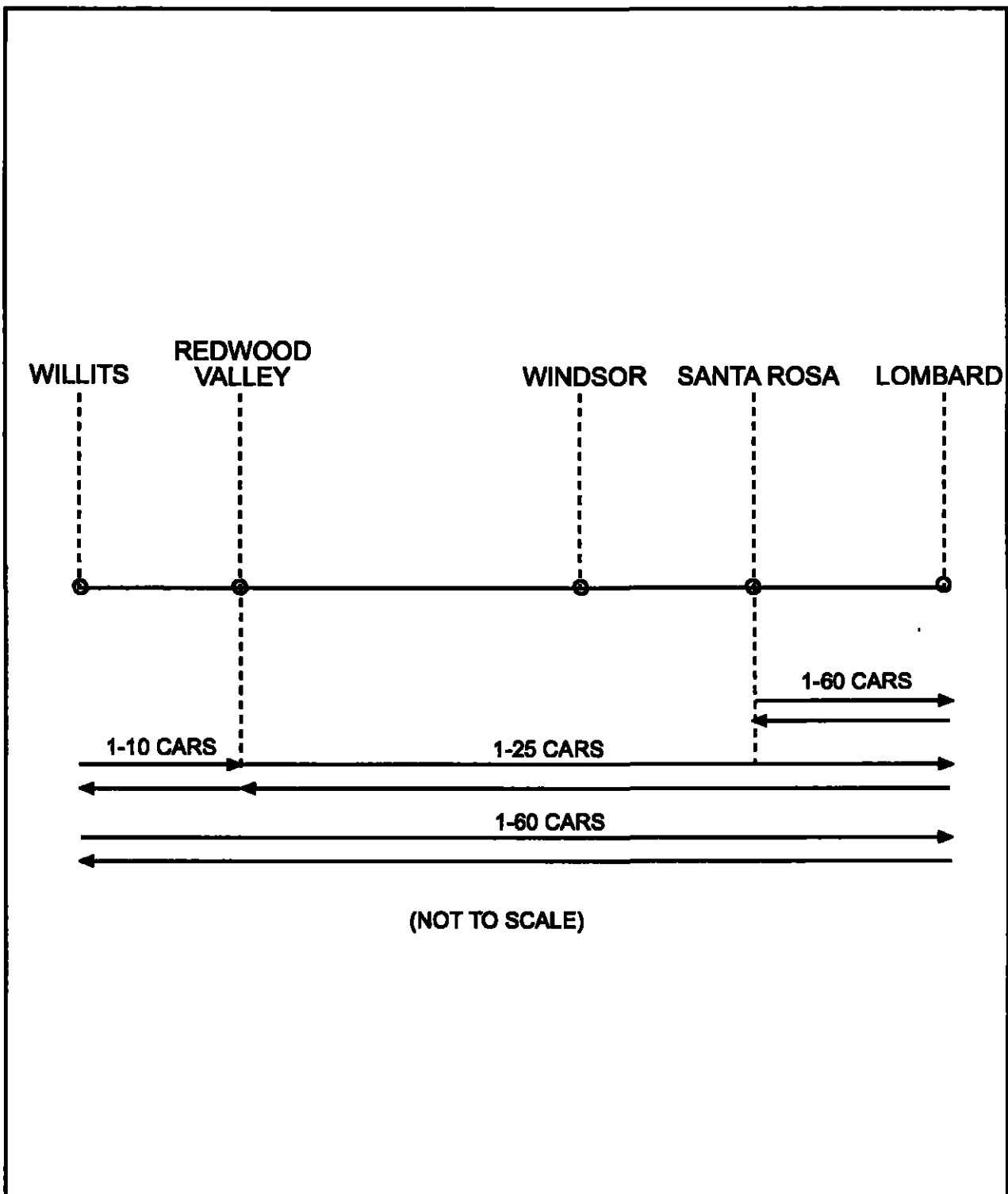
The EIR will identify cumulative projects, including probable future projects that are undergoing environmental review at the time that the NOP is filed for the NCRA RRD freight rail project and include an evaluation of the impacts of the identified cumulative projects.

2.7 INTENDED USE OF THE ENVIRONMENTAL IMPACT REPORT

The NCRA, as lead agency, will prepare a draft Environmental Impact Report (DEIR) to provide the public, regulatory agencies and other interested parties an analysis of the potential environmental impacts of the operation of the RRD and certain identified rehabilitation activities. The DEIR will be prepared in accordance with the California Environmental Quality Act (CEQA), the State Environmental Impact Report Guidelines and California Administrative Code, Title 14.

The rehabilitation activities that will be identified in the DEIR will require consultation with and potentially permits from some of the following regulatory agencies:

- California Department of Fish and Game
- U S. Fish and Wildlife Services
- U.S. Army Corp of Engineers
- Air Quality Districts
- Regional Water Quality Control Board
- Bay Conservation and Development Commission
- National Marine Fisheries Service
- Office of Historic Preservation
- California State Lands Commission
- Local cities and counties



 KLEINFELDER		NUMBER OF FREIGHT TRAINS AND THEIR CARS AT VARIOUS LOCATIONS ALONG THE RAIL CORRIDOR	FIGURE NO 2-2
DRAFTED BY S CALLAHAN	FILE NO. Fig2_2 th11		
PROJECT NO. 78207	DATE 07-10-07		

3.0 ENVIRONMENTAL CHECKLIST FORM

1. Project Title: North Coast Railroad Authority Russian River Division Freight Rail Project
2. Lead Agency Name and Address: North Coast Railroad Authority
3. Contact Person and Phone Number: North Coast Railroad Authority
Attention: Mitch Stogner
419 Talmage Road, Suite M
Ukiah, California, 95482
(707) 463-3280
4. Project Location: Mendocino, Sonoma, Marin and Napa counties
5. Project Sponsor's Name and Address: See No. 2, Lead Agency, above
6. General Plan Designation: N/A
7. Zoning: N/A
8. Description of Project: Resume freight rail service from Willits, Mendocino County to Lombard, Solano County.
9. Surrounding Land Uses and Setting: Rural, agricultural, suburban
10. Other public agencies who may be involved in reviewing and approving aspects of the freight operations or who may require consultation and permits for rehabilitation at Bakers Creek, Foss Creek, and Black Point Bridge include:
- USACE
 - USFWS
 - Air Quality Districts
 - BCDC
 - NMFS
 - OHP
 - CSLC
 - DTSC
 - DFG
 - RWQCB
 - Mendocino, Sonoma, Marin, and Napa Counties
 - Cities of Ukiah, Willits, Cloverdale, Healdsburg, Windsor, Santa Rosa, Petaluma, and Novato

3.1 ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|---|--|--|
| ☐ Aesthetics | ☐ Agriculture Resources | ☒ Air Quality |
| ☒ Biological Resources | ☒ Cultural Resources | ☒ Geology / Soils |
| ☒ Hazards & Hazardous Materials | ☒ Hydrology / Water Quality | ☒ Land Use / Planning |
| ☐ Mineral Resources | ☒ Noise | ☐ Population / Housing |
| ☐ Public Services | ☐ Recreation | ☒ Transportation / Traffic |
| ☐ Utilities / Service Systems | ☒ Mandatory Findings of Significance | |

DETERMINATION: (To be completed by Lead Agency)

On the basis of this initial evaluation:

- ☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared
- ☒ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

3.2 POTENTIAL ENVIRONMENTAL IMPACTS

This section describes the environmental consequences, including direct, indirect, and cumulative impacts, of the Proposed Action, as well as recommended best management practices and/or mitigation measures

A direct environmental impact is one that is immediately caused by the project and that occurs at or near the time and place of the action. Indirect impacts are caused by the project but may occur some time later or at some distance. Indirect impacts may, for example, include induced changes in the pattern of land use or population density or growth rate and their related effects on natural systems or other social systems. They may also include secondary impacts associated with mitigation measures. Cumulative impacts occur in combination with other actions or projects that are occurring or are projected to occur within the region of the Proposed Action.

To provide a clear classification of impacts, this Initial Study defines five types of impacts, including:

- **Significant Impact.** A significant impact includes effects that exceed established or defined thresholds. For example, noise levels that exceed local noise level standards would be considered a significant adverse impact.
- **Potentially Significant Impact.** A potentially significant impact includes effects that may be significant but there is insufficient information to verify the magnitude of the effect. For example, to determine vehicular noise impacts for a new development from a nearby roadway requires information on traffic volume, topography, building location and orientation, construction material, window types and treatment, and height and mass of any structure between the residents and the vehicles. Lack of information relating to these details precludes a definitive conclusion as to whether interior noise levels meet or exceed local or state noise standards.
- **Less Than Significant Impact.** A less than significant impact includes effects that are perceptible, but do not exceed established or defined thresholds. For example, alterations in the development intensity of a site would be noticeable but would not necessarily represent a significant change in land use compatibility, especially if the Proposed Action is consistent with local development standards.

- **Less Than Significant Impact with Mitigation.** A less than significant impact with mitigation indicates that the effects of a significant or potentially significant impact have been reduced below established thresholds through the implementation of specific mitigation measures. For example, implementation of best management practices (BMPs) for stormwater runoff—including silt fences, infiltration galleries and vehicle maintenance—may reduce potential water quality impacts to less than significant.
- **No Impact.** A Proposed Action with no impact will have no perceptible effect on the resources in question.

<i>Less Than Potentially Significant Impact</i>	<i>Significant With Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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3.2.1 Aesthetics

Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Have a substantial adverse effect on a scenic vista? | ☐ | ☐ | ☐ | ☒ |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | ☐ | ☐ | ☐ | ☒ |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings? | ☐ | ☐ | ☐ | ☒ |
| d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area? | ☐ | ☐ | ☐ | ☒ |

Discussion

- a,b,c) Rail service previously operated on the existing rail line for more than 100 years and is a long established visual feature in the landscape. Therefore, resumption of freight rail operations would not induce additional visual disruptions to nearby receptors. No additional impact is anticipated and aesthetics will not be addressed in the EIR
- d) The proposed project would not introduce any new sources of light and glare into the area. Maintenance and storage needs for the rail line would utilize existing facilities. No expansion of these facilities is necessary to accommodate the freight service, therefore, no new lighting would be required for expansion or security purposes. No impact is anticipated and aesthetics will not be addressed in the EIR.

<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
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3.2.2 Agriculture Resources

Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | ☐ | ☐ | ☐ | ☒ |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | ☐ | ☐ | ☐ | ☒ |
| c) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? | ☐ | ☐ | ☐ | ☒ |

Discussion

a,b,c) Agricultural activities occur within the vicinity of the project site. The proposed project site is entirely located within an existing railroad right-of-way except for some rehabilitation activities that may be required at Bakers Creek. No alterations or expansions of right-of-way boundaries will be required. Train operations and routine maintenance would not impact any agricultural resources in the vicinity. No conversions of farmland or conflicts with zoning or the Williamson Act would result from project implementation. Herbicide spraying adjacent to agricultural areas will be conducted in conformance with BMP's outlined in the Herbicide Spraying Plan that was prepared per the requirements of the North Coast Regional Water Quality Control Board. No impacts are anticipated and impacts to agriculture will not be addressed in the EIR.

<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
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3.2.3 Air Quality

Would the project:

- | | | | | |
|--|-------------------------------------|-------------------------------------|--------------------------|--------------------------|
| a) Conflict with or obstruct implementation of the applicable air quality plan? | ☐ | ☒ | ☐ | ☐ |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | ☒ | ☐ | ☐ | ☐ |
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)? | ☒ | ☐ | ☐ | ☐ |
| d) Expose sensitive receptors to substantial pollutant concentrations? | ☒ | ☐ | ☐ | ☐ |
| e) Create objectionable odors affecting a substantial number of people? | ☒ | ☐ | ☐ | ☐ |

Discussion

- The proposed project will generate emissions during operations. An air quality analysis will be conducted as a portion of the EIR that will determine whether the proposed project will conflict with any air quality management plans.
- The air quality analysis for the proposed project will address the emissions associated with the proposed project and address any potential air quality violations.
- The air quality analysis will analyze the cumulative air quality impacts of this project together with the cumulative baseline. This baseline will include other rail proposals, other projects in the region and existing truck emissions.

d,e) Use of diesel locomotives and other equipment may expose sensitive receptors to PM-10 and 2.5, as well as generate odors. This will be evaluated in the air quality analysis of the EIR

<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
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3.2.4 Biological Resources

Would the project:

- | | | | | |
|--|---------------------------------------|---------------------------------------|--------------------------|--------------------------|
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFG or USFWS? | ☒ * | ☐ | ☐ | ☐ |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the CDFG or USFWS? | ☒ * | ☐ | ☐ | ☐ |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (CWA) (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | ☐ | ☒ * | ☐ | ☐ |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | ☒ * | ☐ | ☐ | ☐ |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | ☐ | ☒ * | ☐ | ☐ |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or state habitat conservation plan? | ☒ * | ☐ | ☐ | ☐ |

*** Potentially significant impacts are restricted to rehabilitation activities at Black Point Bridge, Bakers Creek, and Foss Creek. Potential impacts associated with the operation of the railroad are considered less than significant with mitigation. See Discussion.**

Discussion

- a,d) During rehabilitation activities at Bakers Creek, Foss Creek, or the Black Point Bridge, the proposed project could potentially result in a substantial adverse effect, directly or through habitat modifications, on species identified as candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFG or USFWS. The project at these sites may also have potential to substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. These issues will be addressed in the EIR.

- b, f) During rehabilitation activities at Bakers Creek, Foss Creek, or the Black Point Bridge, the proposed project could potentially have a substantial adverse effect on riparian habitat or other sensitive natural communities identified in local or regional plans, policies, and regulations or by the CDFG or USFWS. Additionally, the project at these sites may also potentially conflict with local policies or ordinances protecting biological resources, or with the provisions of adopted Habitat Conservation or Natural Community Conservation Plans, as well as other approved local, regional, or state habitat conservation plans. These issues will be addressed in the EIR.

- c, e) During rehabilitation activities at Bakers Creek, Foss Creek, or the Black Point Bridge, the proposed project could have a substantial adverse effect on Federally protected wetlands as defined by Section 404 of the CWA, through direct removal, filling, hydrological interruption, or other means. Additionally, the project at these sites may also potentially conflict with local policies or ordinances protecting biological resources, or with the provisions of adopted Habitat Conservation or Natural Community Conservation Plans, as well as other approved local, regional, or state habitat conservation plans. Potential impacts associated with the operations of the railroad will be mitigated by implementing appropriate BMPs to a less than significant level. These issues will be addressed in the EIR.

<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
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3.2.5 Cultural Resources

Would the project:

- | | | | | |
|---|--------------------------|-------------------------------------|--------------------------|--------------------------|
| a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5? | ☐ | ☒ | ☐ | ☐ |
| b) Cause a substantial adverse change in the significance of a unique archaeological resource pursuant to §15064.5? | ☐ | ☒ | ☐ | ☐ |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | ☐ | ☒ | ☐ | ☐ |
| d) Disturb any human remains, including those interred outside of formal cemeteries? | ☐ | ☒ | ☐ | ☐ |

Discussion

- a,b,c,d) Preliminary review of previous studies of the project corridor has identified that historic, archeological, and unique paleontological or geologic resources may be present along the rail corridor. It is not known if there are any cultural resources at the Bakers Creek and Foss Creek rehabilitation sites. It is therefore determined that a cultural resource records search be conducted for the entire right-of-way and off right-of-way use areas to determine what resources are historically significant. As such, potential impacts to Cultural Resources will be addressed in the EIR.

<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
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3.2.6 Geology and Soils

Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

☒	☐	☐	☐
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ii) Strong seismic ground shaking?

☒	☐	☐	☐
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iii) Seismic-related ground failure, including liquefaction?

☐	☒	☐	☐
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iv) Landslides?

☐	☒	☐	☐
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b) Result in substantial soil erosion or the loss of topsoil?

☐	☒	☐	☐
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c) Be located on geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

☐	☒	☐	☐
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d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (UBC) (1997), creating substantial risks to life or property?

☒	☐	☐	☐
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e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

☐	☐	☐	☒
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Discussion

- a,b,c,d) The proposed project is located in an area that is seismically active and has experienced strong quake activity in the past. As such, geological and soil conditions will be addressed in the EIR.**
- e) No septic tanks or wastewater disposal systems are included with the proposed project design and therefore no impacts are anticipated and no further analysis is required**

<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
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3.2.7 Hazards and Hazardous Materials

Would the project:

- | | | | | |
|--|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? | ☐ | ☒ | ☐ | ☐ |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? | ☐ | ☒ | ☐ | ☐ |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | ☒ | ☐ | ☐ | ☐ |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? | ☒ | ☐ | ☐ | ☐ |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | ☐ | ☐ | ☒ | ☐ |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? | ☐ | ☐ | ☒ | ☐ |

	<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☒	☐	☐	☐
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☒	☐

Discussion

- a,b,c) The operator does not intend to haul any hazardous waste, dangerous, highly flammable or explosive materials. Operations for the proposed project could potentially result in a potentially significant impact due to an upset or accidental release of diesel fuel in the case of a derailment. Therefore, these issues will be addressed in the EIR.
- d) It is currently not known if the proposed project is located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. This issue will be addressed in the EIR
- e,f) The operations of the railroad will not involve the management of significant quantities of hazardous materials and the potential impacts to airports is considered less than significant and no further analysis is required.
- g) Except for rehabilitation activities at Bakers Creek, the proposed project would be limited to the existing NWP right-of-way and would not require the alteration of any public roadways. The proposed project would also be limited to the restoration of previously existing railroad facilities and would not impair the implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Potential impact is anticipated to be less-than-significant and no further analysis is required. h) The proposed project is rehabilitation and operation of existing railroad facilities and would not introduce elements that would expose people or structures to significant risks involving wildland fires beyond previously existing conditions.

Potential impact is anticipated to be less than significant and no further analysis is required.

<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
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3.2.8 Hydrology and Water Quality

Would the project

- | | | | | |
|---|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| a) Violate any water quality standards or waste discharge requirements? | ☐ | ☒ | ☐ | ☐ |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | ☐ | ☐ | ☐ | ☒ |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion of siltation on or off-site? | ☐ | ☐ | ☒ | ☐ |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site? | ☐ | ☐ | ☒ | ☐ |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? | ☐ | ☐ | ☒ | ☐ |
| f) Otherwise substantially degrade water quality? | ☐ | ☐ | ☒ | ☐ |
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | ☐ | ☐ | ☐ | ☒ |

	<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
h) Place within a 100-year flood hazard area structures that would impede or redirect flood flows?	☐	☐	☐	☒
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☒	☐	☐
j) Inundation of seiche, tsunami, or mudflow?	☐	☐	☐	☒

Discussion

a,c,d,e,f) Rehabilitation and maintenance operations could potentially result in significant impacts from erosion and siltation in waterways. Because the project is rehabilitation of an existing facility, improvements will not contribute runoff water that would exceed the capacity of existing or planned stormwater systems. Without mitigation, grading, excavation and rehabilitation activities could contribute to minimal soil erosion and a subsequent degradation in water quality. It is expected that implementation of standard erosion control techniques during project maintenance activities would reduce potential water quality impacts to less-than-significant levels. These issues will be addressed in the EIR.

b) The proposed project would not utilize groundwater or interfere substantially with groundwater recharge. No impact on groundwater is anticipated and no further analysis is required.

g,h) The rail line is an existing site feature. The proposed project would not place housing or structures that would impede or redirect flow within a 100-year flood hazard area. No impact is anticipated and no further analysis is required.

i) The proposed project does not include elements that would expose people or structures to significant risks involving flooding or dam failure. No impact is anticipated and no further analysis is required.

- j) The proposed project is the restoration of an existing railroad line that has been in existence for over 100 years. The proposed project would not place new development that would be subject to seiches, tsunamis, or mudflows. No impact is anticipated and no further analysis is required.

<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
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3.2.9 Land Use and Planning

Would the project.

- | | | | | |
|---|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| a) Physically divide an established community? | ☐ | ☐ | ☒ | ☐ |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | ☒ | ☐ | ☐ | ☐ |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan? | ☒ | ☐ | ☐ | ☐ |

Discussion

- a) The proposed freight rail service restoration project contains no new elements that would potentially divide an established community. Impact to established communities is anticipated to be less-than-significant and no further analysis is required. Potential traffic-related impacts at railroad crossings will be addressed in the Transportation/Traffic section of the EIR.
- b,c) It is not presently known if the proposed project would conflict with any applicable land use plan, habitat conservation plan, natural community conservation plan, or regulation that was adopted for the purpose of avoiding or mitigating an environmental effect. These issues will be addressed in the EIR.

<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
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3.2.10 Mineral Resources

Would the project

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? | ☐ | ☐ | ☐ | ☒ |
| b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | ☐ | ☐ | ☐ | ☒ |

Discussion

- a,b) Project implementation would not result in the loss of availability of mineral resources of local or State importance. No impacts are anticipated and impacts to mineral resources will not be addressed in the EIR.

<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
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3.2.11 Noise

Would the project result in:

- | | | | | |
|---|-------------------------------------|--------------------------|--------------------------|--------------------------|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | ☒ | ☐ | ☐ | ☐ |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | ☒ | ☐ | ☐ | ☐ |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | ☒ | ☐ | ☐ | ☐ |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | ☒ | ☐ | ☐ | ☐ |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | ☒ | ☐ | ☐ | ☐ |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? | ☒ | ☐ | ☐ | ☐ |

Discussion

- a,b,c,d) It is currently not known if project-generated noise or vibration levels would exceed any established standards, expose persons to excessive temporary or permanent noise/vibration levels. These issues will be addressed in the EIR.
- e,f) The proposed project is located within the vicinity of several local airports. Therefore, the issue will be addressed in the EIR.

<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
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3.2.12 Population and Housing

Would the project:

- | | | | | |
|---|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | ☒ | ☐ | ☐ | ☐ |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | ☐ | ☐ | ☐ | ☒ |
| c) Displace substantial numbers of people necessitating the construction of replacement housing elsewhere? | ☐ | ☐ | ☐ | ☒ |

Discussion

- a,b,c) The proposed freight rail service would neither induce substantial population growth nor displace any housing units, and would not displace any people. With the exception of the three rehabilitation projects at Bakers Creek, Foss Creek, and Black Point Bridge, the project is essentially the resumption of an existing railroad line and is not adding new infrastructure. Therefore, it is not anticipated to stimulate population growth beyond what previous freight rail operations may already have incurred. No impacts on population or housing are anticipated as a result of the proposed project and this issue area will not be addressed in the EIR.

<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
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3.2.13 Public Services

Would the project:

- a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:

Fire protection?	☐	☐	☒	☐
Police protection?	☐	☐	☒	☐
Schools?	☐	☐	☐	☒
Parks?	☐	☐	☐	☒
Other public facilities?	☐	☐	☐	☒

Discussion

- a) Implementation of the proposed freight rail service would not involve the alteration of government facilities, nor would it require new or additional public services. The proposed project would potentially increase demand for fire and police protection in the case of a derailment. However, the unlikelihood of a train derailment would not increase fire and police protection to a potentially significant level. In addition, the reduction in diesel trucks along US 101 would potentially create a net positive benefit for fire and police protection. Freight rail safety will be addressed in the EIR. However, potentially adverse impacts associated with public services and governmental facilities are anticipated to be less than significant and public services will not be analyzed in the EIR.

<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
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3.2.14 Recreation

Would the project

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | ☐ | ☐ | ☐ | ☒ |
| b) Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment? | ☐ | ☐ | ☐ | ☒ |

Discussion

- a,b) The proposed project will not permanently encroach upon nor result in an increased use of existing neighborhood or regional parks, or other recreation facilities. The implementation of freight rail service does not include recreational facilities or contain elements that would require the expansion of recreational facilities. No impact is anticipated and recreation will not be analyzed in the EIR.

<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
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3.2.15 Transportation / Traffic

Would the project

- | | | | | |
|---|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|
| a) Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)? | ☒ | ☐ | ☐ | ☐ |
| b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? | ☒ | ☐ | ☐ | ☐ |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? | ☐ | ☐ | ☐ | ☒ |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | ☐ | ☐ | ☐ | ☒ |
| e) Result in inadequate emergency access? | ☐ | ☒ | ☐ | ☐ |
| f) Result in inadequate parking capacity? | ☐ | ☐ | ☐ | ☒ |
| g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? | ☐ | ☒ | ☐ | ☐ |

Discussion

- a,b) Project construction and operation may result in an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system, and may result in exceeding a level-of-service standards. These issues will be addressed in the EIR.

- c) **Project implementation will be limited to resuming freight rail operations and would not result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks. No impact is anticipated and no further analysis is necessary.**
- d) **The proposed project would repair the track to its previous safe condition at Bakers Creek and Foss Creek, would repair the bridge at Black Point, and resume operations of the existing line. These activities would not introduce new design features that could increase hazards. Project designers will include measures that will correct potential hazards that may exist within the existing facility, which would result in safer conditions than currently present. No impact is anticipated and no further analysis is required.**
- e) **The proposed project could result in potentially inadequate emergency access due to traffic at rail crossings. These issues will be addressed in the EIR.**
- g) **The proposed project could potentially conflict with adopted policies, plans, or programs supporting alternative transportation and this issue will be addressed in the EIR.**

<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
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3.2.16 Utilities and Service Systems

Would the project:

- | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Exceed wastewater treatment requirements of the applicable RWQCB? | ☐ | ☐ | ☐ | ☒ |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | ☐ | ☐ | ☐ | ☒ |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | ☐ | ☐ | ☐ | ☒ |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? | ☐ | ☐ | ☐ | ☒ |
| e) Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | ☐ | ☐ | ☐ | ☒ |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | ☐ | ☐ | ☐ | ☒ |
| g) Comply with federal, state, and local statutes and regulations related to solid waste? | ☐ | ☐ | ☒ | ☐ |

Discussion

- a) The proposed project would not require wastewater treatment capabilities and therefore would not exceed the requirements of the RWQCB. No impact is anticipated and this will not be addressed in the EIR.
- b,e) The proposed project would not require water supply or wastewater treatment capabilities and therefore would not result in the exceedence of system capacities or require the construction of new facilities. No impact is anticipated and this will not be addressed in the EIR.
- c) The proposed project would not require or result in the construction of new storm drainage facilities or require the expansion of existing facilities. No impact is anticipated and this will not be addressed in the EIR.
- d) The proposed project would not require a water supply and no new or expanded entitlements would be needed. No impact is anticipated and this will not be addressed in the EIR.
- f,g) The proposed restoration of freight rail service would generate limited amounts of solid waste during construction and normal operations. These materials, however, would not be of sufficient quantity to require a significant increase in need for landfill services, and would not exceed federal, State, and local statutes and regulations related to solid waste. The hauling of solid waste will be in compliance with all federal, state and local regulations and these issues will be addressed in the transportation and hazards sections of the EIR.

<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporation</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
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3.2.17 Mandatory Findings of Significance

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

☒ ☐ ☐ ☐

b) Does the project have impacts that are individually limited, but cumulative considerable? ("Cumulative considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

☐ ☒ ☐ ☐

c) Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?

☒ ☐ ☐ ☐

Discussion

a,b,c) Aspects of the proposed project, whether they be associated with the operations of the railroad or the rehabilitation activities at Bakers Creek, Foss Creek and Black Point Bridge, would have potentially significant environmental impacts that MAY adversely affect plants, wildlife, and human beings. These potential impacts are identified in this Initial Study and are recommended for further analysis. Potential impacts that have been determined to result in less than significant impact or no impact will not require further analysis. Human beings would primarily be affected by increased noise levels, air quality, traffic, and potential conflicts with local plans or policies. Plants and wildlife would be affected by certain rehabilitation activities and some aspects of railroad operations. To appropriately address

these impacts, it is therefore recommended that an EIR be prepared for this project. This project may be cumulatively considerable including noise, traffic and air quality.

4.0 REPORT PREPARATION

4.1 LEAD AGENCY

The North Coast Railroad Authority is the lead agency under CEQA for the preparation of the RRD Freight Rail Service Project.

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4.2 REPORT PREPARERS

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5.0 REFERENCES

Federal Emergency Management Agency - U.S. Department of Homeland Security
Final Programmatic Environmental Assessment. South End Alternative. North Coast
Railroad Authority. FEMA-1203-DR-CA. March 2004.

Sonoma-Marin Area Rail Transit District; Parsons - Brinckerhoff - Quade & Douglas,
Inc. *Sonoma-Marin Area Rail Transit Project Draft Environmental Impact Report.*
SCH # 2002112033. November 2005

(\$395,781.66) in the Unclaimed Property Fund in the account maintained in that fund for surplus from the estates of deceased persons, is hereby appropriated to the State School Fund to be expended for the purposes prescribed for expenditure of the State School Fund by the State Constitution and by state law.

CHAPTER 1109

An act to require the sale of certain lands now in the possession and control of the San Francisco Port Authority.

In effect
September
18, 1959

[Approved by Governor June 19, 1959 Filed with
Secretary of State June 19, 1959]

The people of the State of California do enact as follows:

SECTION 1. The San Francisco Port Authority is authorized and directed to sell, on behalf of the State, to the Redevelopment Agency of the City and County of San Francisco all right, title, and interest of the State in the state lands described as follows:

(a) Beginning at the point of intersection of the southerly line of Broadway and the easterly line of Davis Street; running thence southerly along said line of Davis Street to the southerly line of Pacific Avenue; thence at a right angle easterly along said line of Pacific Avenue to the northeasterly line of Block "G" as said Block "G" is shown on map entitled "Monument Map of the Fifty Vara District of the City and County of San Francisco" filed in the office of the Recorder of the City and County of San Francisco, State of California, January 7, 1910, and recorded in Map Book "G" at page 151, said Block "G" being also known as Assessor's Block 170; thence northwesterly along the northeasterly line, extended northwesterly, of said Block "G," the northeasterly line, and its extension northwesterly, of Block "K" according to map hereinabove referred to, said Block "K" being also known as Assessor's Block 169, and the northeasterly line of Block "L" according to map hereinabove referred to, said Block "L" being also known as Assessor's Block 168, to the southerly line of Broadway; thence westerly along said line of Broadway to the point of commencement.

Being all of fractional blocks "K" and "L" as shown on map hereinabove referred to, also known as Assessor's Blocks 169 and 168, and portions of Pacific Avenue and Drumm Street.

(b) Pacific Avenue between the easterly line of Front Street and the westerly line of Davis Street, and that portion thereof lying east of the easterly line of Davis Street; Clark Street between the easterly line of Front Street and the westerly line of Davis Street, and that portion thereof lying east of the easterly line of Davis Street; that portion of Jackson Street lying east of the easterly line of Drumm Street, and a

triangular parcel adjoining the same on the south lying between the southerly line of Jackson Street, the easterly line of 50 Vara Block "G" produced southerly, and the northeasterly line of 50 Vara Block "E"; those portions of Oregon Street lying between the easterly line of Battery Street and the westerly line of Drumm Street and east of the easterly line of Drumm Street; that portion of Merchant Street lying between the easterly line of Battery Street and the westerly line of Front Street; those portions of Commercial Street lying between the easterly line of Battery Street and the westerly line of Front Street, between the easterly line of Front Street and the westerly line of Davis Street, between the easterly line of Davis Street and the westerly line of Drumm Street, and that portion lying east of the easterly line of Drumm Street; that portion of Sacramento Street lying east of the easterly line of Drumm Street; that portion of Drumm Street lying north of the northerly line of Jackson Street; those portions of Front Street and Davis Street lying between the northerly line of Washington Street and the southerly line of Jackson Street; those portions of Front Street and Ceylon Street lying between the northerly line of Clay Street and the southerly line of Washington Street; that portion of Market Street lying northeast of the northeasterly line of Steuart Street, extended northwesterly.

SEC. 2. The Legislature hereby finds and declares that the lands described in Section 1 have ceased to be tide and submerged lands and are therefore free of the public trust for navigation, commerce, and fisheries.

SEC. 3. The lands described in Section 1 shall be conveyed to the Redevelopment Agency of the City and County of San Francisco free of any previously existing public trust for navigation, commerce, and fisheries or any other use, trust, condition or restriction which may have been imposed upon the lands.

SEC. 4. The lands described in Section 1 shall be sold at a price established by agreement after independent appraisals between the San Francisco Port Authority and the Redevelopment Agency of the City and County of San Francisco, with the approval of the State Director of Finance. The Port Authority may require as additional consideration that the City and County of San Francisco shall agree to provide such access streets to the waterfront as may be necessary. A deed or quitclaim deed executed by the San Francisco Port Authority shall be sufficient to convey title of said lands to the Redevelopment Agency of the City and County of San Francisco. The deed or quitclaim deed shall reserve to the State of California all oil, gas, oil shale, coal, phosphate, sodium, gold, silver, and all other mineral deposits contained in the land conveyed, and further reserve to the State of California and persons authorized by the State, the right to drill for and extract such deposits of oil and gas, or gas, and to prospect for, mine, and remove such deposits of other minerals from the land conveyed,

subject to the provision that the right to drill for and extract such deposits of oil and gas, or gas, and to prospect for, mine, and remove such deposits of other minerals, shall be with the consent of the grantee and shall not disturb the surface, or the ground within 100 feet of the surface of the real property conveyed.

SEC. 5. The Redevelopment Agency of the City and County of San Francisco is authorized to bring or defend any action to establish its title to the lands described in Section 1. Any suit against the State, or against any agency of the State, to establish title in the Redevelopment Agency of the City and County of San Francisco is authorized, and consent to any such suit is given.

SEC. 6. Service of summons in any actions or suits pursuant to Section 4 or 5 shall be made upon the President of the San Francisco Port Authority and upon the Attorney General, and the Attorney General shall represent the State in any such actions or suits.

SEC. 7. Any money received from the sale of the lands described in Section 1 shall be paid into the State Treasury to the credit of the San Francisco Harbor Improvement Fund. Said money shall be used by the San Francisco Port Authority for the purpose of acquiring land of at least equal value which shall be subject to the public trust for navigation, commerce, and fisheries.

SEC. 8. No statute requiring a conditional transfer of state land, or a transfer subject to reversion upon breach of condition, shall apply to the transfer provided for by this act.

CHAPTER 1110

An act to amend Section 28158 of the Government Code, relating to compensation for public services in counties of the fifty-eighth class.

In effect
September
18, 1959

[Approved by Governor June 23, 1959 Filed with
Secretary of State June 23, 1959]

The people of the State of California do enact as follows:

SECTION 1. Section 28158 of the Government Code is amended to read:

28158 In a county of the fifty-eighth class the following shall receive as compensation for the services required of them by law or by virtue of their offices the following sums:

- (a) The auditor, two thousand dollars (\$2,000) a year.
- (b) The district attorney, three thousand nine hundred dollars (\$3,900) a year.
- (c) Each supervisor, one thousand two hundred dollars (\$1,200) a year, and twenty cents (\$.20) a mile for traveling from his residence to the county seat, going only. Only one mileage shall be allowed for any regular session of the board.