

January 14, 2010

Mr. Mitch Stogner, Executive Director  
North Coast Railroad Authority  
419 Talmage Road, Suite M  
Ukiah, CA 95482



Via fax 707-463-3282 and email

Dear Mr. Stogner:

Marin Conservation League (MCL) appreciates the opportunity to submit comments concerning the adequacy of the above EIR. MCL has been active in the conservation of Marin's natural environment for 75 years. Among our activities is monitoring the environmental impacts of proposed transportation infrastructure projects and operations within Marin County and surrounding counties. We are particularly interested in the adequacy of measures proposed to mitigate significant impacts.

First, and most important, we believe the DEIR is flawed in that it evaluates only the impacts of operations between Lombard and Willits, yet NCRA and its partners have been actively planning to extend the operations from Willits to Arcata. It is essential that the DEIR identify the cumulative impacts from Lombard to Arcata. Support for our position in this issue is covered in our letter of July 31, 2007. This same MCL letter also suggests that the DEIR be based on a range of "representative demands."

Specific Comments regarding the DEIR include the following:

1. Pedestrian Safety Impact PFS-OP1: The NCRA Right-of-Way goes through the middle of each of the cities along the line. For instance, in Novato all of the development east of the track is residential and includes one school. This means that all vehicle and pedestrian traffic must pass over the track. The DEIR states that the freight trains will travel at 40 mph through Novato. The DEIR provides no supporting data substantiating the effectiveness of the mitigation measure "Operation Lifesaver." Caltrain has experienced pedestrian fatalities, 8 in 2009, with up to 62% being suicides. We believe that it is not adequate to rely on the program "Operation Lifesaver." To prevent these accidents. Consideration should be given to reducing train speed, implementing crossing guards during peak student traffic and provide flashing lights along side the tracks extending out from each crossing. We can assure you that when the first casualty occurs, Impact PFS-OP1 will not be less than significant!
2. Throughout the DEIR mitigation measures are described as being "Best Management Practices" (BMP). BMP are now described in a separate section, which, if carried out fully, could reduce the negative environmental impacts of the projects. Yet the text for these practices identifies NCRA as being the body to carry out these practices. It is impossible to believe that with NCRA's limited staff and limited operating funds, that the practices can or will be carried out in a timely manner. The EIR should identify in detail how the practices will be fulfilled. This would include the staff needed, their

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skill set and estimated hours and cost. If BMP is not followed the negative impacts will occur.

3. The SMART vehicle selection consultant suggested that it may be possible to alter headways if heavy DMUs are used. That would alter passing track locations, possibly shifting construction into sensitive wetlands. The DEIR should evaluate impacts of all potential passing track locations.

4. The eventual design and placement of the safety fence alongside the track to protect bicycle and pedestrian traffic appear to be uncertain. Therefore, it is not possible to determine the impacts of a barrier on wildlife movement. NCRA and SMART should settle their differences and resolve the design of the fencing. The DEIR should evaluate the effectiveness of a design that enables full wildlife movement, it should provide mitigations for the negative impacts - i.e., where movement is impeded.

5. A discussion of truck traffic begins on Page 3.10-14. The DEIR states that approximately 3,200 trucks travel through the Marin Sonoma Narrows per day. On Table 3.10-5 shows a truck equivalent of 4 trucks to one rail car. Considering the importance of an accurate truck equivalence, which dictates the safety and greenhouse gas emissions effects, we believe that the DEIR analysis is flawed and must be redone. The flaws are described below.

- The analysis assumes that all four equivalent trucks are full of merchandise starting from the same location and going to the same destination at the same time, and these locations are served by a rail siding. It is very unlikely that there are freight demands that meet these conditions. This condition worsens because the rail car is not handling containers. The rail car must be loaded full and going to the same destination. We believe that there will be very limited freight demand that will fill one rail car meeting these conditions.

- The DEIR must investigate how many of the 3,200 trucks per day are full or are Less Than Carload Lots. There is no analysis as to how many rail cars would have to be broken down and have the freight transferred to trucks that will haul the freight to the final destination.

- The DEIR must also evaluate the average distance between shipping point and receiving point currently performed by truck traffic. We suspect that the massive distribution warehouses in the Central Valley would normally prefer to ship directly to customers on a point to point basis, and would not find it acceptable to ship goods by train into the Bay Area and the Northbay regions that require transshipments and additional handling.

- A more detailed analysis will show that the "equivalent truck" will be much lower than four to one. For each truck that does not fit the conditions of an equivalent truck is a truck that does not reduce GHG emission or reduce highway truck traffic as a result of completing the project.

6. No temporary out-of-date diesel locomotives should be allowed at startup of the NCRA operations. The EIR describes older locomotives to be Tier 0 for limited operation during startup. The DEIR needs to identify Tier 0 performance and MUST identify the time limit that the old equipment be performed on the actual locomotives that will be used. The emissions from these old locomotives must be included in the DEIR and published so that impacted residence will be properly informed and

fully protected by the mitigation measures that must be created.

7. On Page 3.1-34 the DEIR states that the Project will result in a CO<sub>2</sub>e reduction of 41,390 tons per year. Because of the claimed reduction of GHG emissions, it is essential that the number of displaced trucks be reviewed in greater detail than currently in the DEIR.

8. On Page 3.5-1 the DEIR states that the NCRA project is not growth inducing. Yet at the May 20, 2009 SMART Board Meeting Councilwoman Carol Russell, SMART representative from Cloverdale, objected strongly to the possible phased construction with delays in building the Cloverdale leg. She claimed that there were many redevelopment plans underway around the train depot. If the train did not come to Cloverdale there would be costly impacts to the delayed development plans. This statement contradicts the DEIR conclusion that the project is not growth inducing, and reinforces a contrary result: that NCRA's freight operation will have growth inducing impacts. These likely impacts deserve analysis in the DEIR.

-The DEIR does not evaluate the effects of SB 375 legislation whose intent is to promote high-density development within a mile of a rail stop or transit center. Jurisdictions will be required to conform to the conditions of SB 375. The DEIR must fully evaluate the growth impacts resulting from the implementation of SB 375.

9. MCL has great concern over impacts of vibration on sensitive facilities ("receptors") adjacent to the NCRA rail line. Of particular concern are the noise and vibration impacts on Novato Community Hospital. In MCL's letter of July 31, 2007, we expressed concern that train vibration would negatively impact the reliability and safety of all the anticipated medical and surgical procedures at Novato Community Hospital. Since that time, Sutter Health has purchased a building south of the hospital that is being used for outpatient surgical services. This building is closer to the railroad track than the hospital.

-The vibration analysis used in the DEIR is not adequate. Page 3.8-9 describes the test procedures used to estimate the ground vibration for the Project by comparing the results with tests performed in Auburn, California. The test consisted of mounting an accelerometer onto a one-foot long spike driven into the ground and then observing the vibration from passing freight and passenger trains, traveling between 15 to 35 MPH. The DEIR does not explain why the tests were conducted in Auburn. The Novato medical centers are located on fill overlying old bay mud, which would transmit vibrations in a much different manner. The vibration studies must be repeated near the Bay, such as in Napa or beyond the Lombard connection where similar geological conditions exist.

-Impact N-OP3 states that ground vibration is significant and unavoidable and that there are no available mitigations. This is not correct. The DEIR, upon retesting vibration, should contain research leading to the evaluation of mitigations. The following are possible mitigations: a) reduced train speed through sensitive areas. b) BMPs that place emphasis on maintaining track quality at Class 3 or Class 4 minimum. c) Coordination with hospital operations to avoid critical surgery from occurring during a train passing.

-The vibration caused by heavy freight cars with worn wheels or wheels with flats must be evaluated. Do worn wheels and flat wheels produce less noise and vibration at lower speeds, or is the noise level dependent on the load of the rail cars?

10. The DEIR should specify procedures for collecting and disposing of old ties that are impregnated with creosote. Many of the ties were pulled from service and cast aside on the ROW. These railroad ties are recognized as hazardous wastes but the DEIR does not detail what is the BMP for their handling and disposal in order to fully mitigate their removal and replacement. The disposal methods must be identified in the DEIR.

11. The Vehicle Delay Analysis should include the gate down to gate up time PLUS the time required to alleviate the backup of autos at the crossing(s) at various train speeds and trains consisting of 20, 40, and 60 cars long.

12. The only projects used to project cumulative impacts, identified on Page ES-16, were SMART, Shamrock Materials, the Willits Bypass, and Re-routing of containerized solid waste to the proposed project loading and unloading areas. The DEIR must also consider the impacts of development of Railroad Square in Santa Rosa, Fireman's Fund lands in Novato, and the proposed station redevelopment in Cloverdale.

13. The seasonal mitigation dates described in the Summary of Findings in the Executive Summary are confusing. In several locations, NCRA construction and operational activities must mitigate the impact on bird life during breeding and nesting season, stated to be from February 15 through September 15. Yet those are not the dates shown as the period of allowable mitigation activity, e.g. September 1 through January 31. There is a 15-day gap in these dates. It would seem that no mitigation activity should be allowed from February 15 through September 15. The DEIR must clarify these dates.

14. (BIO-RA3) Wetlands and mudflats, if disturbed by construction and maintenance, are to be mitigated by creation of equivalent habitat, indicated in the DEIR at a 1:1 ratio. New habitat is not equal to established habitat. Therefore, the replacement ratio should be 3:1 and be located as near as possible to the impacted site. The DEIR proposes mitigation for other impacted habitat on a 1:1 basis. This is inadequate. The mitigation should be at a 3:1 ratio.

15. (GEO-OP1) Regarding the parts of roadbed and embankments that are subject to erosion and flooding: The mitigation is limited to regular inspection and maintenance. The DEIR does not provide sufficient mitigation for known problem areas - areas such as the bridge at the Novato Creek, for example, where the whole structure requires re-engineering, redesign and reconstruction. The work that has been done to date has been to raise the level of the track. The actual problem with this bridge is that the pilings act as a rake that catches debris during heavy storms and clogs the pilings. Flooding will continue as in the past, except that the water levels may rise due to the raised roadbed. The DEIR must determine if the modifications to date will result in flooding of

the building adjacent to the bridge. A proper mitigation would be to construct a new bridge with a clear span that debris could flow under.

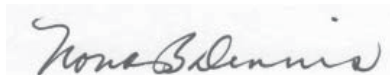
16. The DEIR does not evaluate the impacts of Sea Level Rise and mitigation(s) to address that eventuality. The DEIR must determine the expected rise in sea level, the damage to existing infrastructure, and requirements for modifications to existing roadbed to compensate for the rise in sea level and accompanying flooding risks.

17. SMART's project includes construction of a pedestrian and bike path within the right of way (ROW) between Cloverdale and Larkspur. Much of this ROW will also be used by NCRA. Because there has yet to be an agreement between SMART and NCRA on the design of fencing separating trail from rail, the DEIR is silent on the safety risks associated with freight operations next to a bike and pedestrian path. The DEIR must include a detailed safety analysis and desired BMP. If the trail design is in accordance of Mitigation Measure PFS-OPa there will be a substantial increase in the footprint of altered natural features. The DEIR must evaluate the impacts of this enlarged footprint based on the highest likely train speed and length. Mitigation Measures must be developed for the final design.

Please address these unresolved issues in the final EIR. If you have questions concerning our comments, please address them to Don Wilhelm, Chair, Transportation Committee, at 415-897-6331.

Sincerely yours,

Nona Dennis

A handwritten signature in black ink, appearing to read "Nona Dennis", is placed over a light blue rectangular background.

President

Attachment: MCL Letter of July 31, 2007





Corres. file

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July 31, 2007

David Anderson  
NCRA  
419 Talmage Road, Suite M  
Ukiah CA 95482

Subject: NCRA Environmental Impact Report for the NCRA Russian River Freight Division

Dear Mr. Anderson:

The Marin Conservation League (MCL) has reviewed documents relating to the subject EIR. The sources of this letter include documents from NCRA, SMART and the Northwestern Pacific Railroad Company (NWPR). As described below, we believe that it is absolutely essential that a Draft EIR be prepared that includes all of the accumulated impacts of rail operations from Lombard to Arcata. This must also incorporate all of the phases included in the strategic business plans of NCRA and NWPR as the rail operator. For those portions of the right-of-way that will also be used by SMART, the cumulative effects of both freight and passenger services by SMART must be assessed as well.

### GENERAL COMMENTS:

Consideration should be given towards making this EIR a combined EIR/EIS. An EIS would address the analysis required by the Federal Government. NCRA staff has indicated that NCRA has applied for Federal funds. An EIS also must contain detailed cost-benefit and financial analysis of all alternative rail operations. We believe that this is essential, as past NCRA rail operations have been financial failures. If the proposed rail system results in operations with high deficits, it is likely to cause diversion of State and Federal funds from more cost effective transportation solutions that could satisfy the purpose and needs of the project.

There has been considerable public discussion regarding the scope of the study area. NCRA's own Lease Agreement, Page 2 defines the following segments:

- Easement Premises covering Lombard to Healdsburg
- Leased Premises covering Healdsburg to Willits
- Eel River Block covering Willits to South Fork
- Humboldt Bay Block covering South Fork to Arcata

*Marin County's Environmental Guardian*

A nonprofit corporation founded in 1934 to preserve, protect and enhance the natural assets of Marin County.

These segments have been evaluated by the freight system operator and have been submitted to governmental agencies for the purpose of obtaining approval for the acceptance of public funds for repair and operation of the freight system. MCL strongly believes that the EIR must evaluate all four segments. There is support for taking this position. The California High-Speed Rail Authority is conducting Draft Program EIR/EIS for segments of the HSR system, Bay Area to Central Valley, LA to Orange County and LA to Palmdale. That Program EIR/EIS will be combined to provide information for the entire system, which will be constructed in phases.

There has also been considerable discussion regarding the number of freight trains and the length of freight trains that will operate on the NCRA system. The rail system operators state that it is difficult to predict the number of cars used. Again, the California High-Speed Rail Authority is faced with the same issue. They have thus evaluated the environmental impacts of the system using a range of "representative demands" that cover the expected high and low ridership values. The NCRA EIR/EIS should take the same approach. There is no justification for conducting the EIR/EIS based on one level of use. Impacts will vary based on the level of freight. For example, if freight levels rise, more trucks will be taken off Highway 101 but hazards and delays and noise at street crossings will also rise. We, therefore, recommend the study range for freight traffic go from the first year of operation, 5 years out and to buildout as suggested by the operator's business plans.

SPECIFIC COMMENTS REGARDING THE INITIAL STUDY: (Limited only to the segment between Willits and Lombard) Comments on other segments will be submitted in a separate document.

Section 2.1, Page 2-3 – The Initial Study suggests that the Project will meet the purpose and needs of a reliable transportation system. This has not been the history of this Project. Flooding and earth slides, equipment and infrastructure failures have caused the rail system to be inoperative for extended periods of time. Because of the one track, inaccessible right of way (ROW), repairs can be difficult and expensive. The EIR should define some of the extended failures of the past and how they will be remedied so that the impacts of rail line failures can be properly assessed in the EIR.

Section 2.1, Page 2-3 and 2-4 - The Initial Study also suggests that the Project will remove trucks from Highway 101. The EIR should include a detailed evaluation of the percentage of trucks that could be economically diverted to rail traffic. This would include an evaluation of the nature of the truck contents, i.e. density, value, origin and destination, susceptibility to vibration damage and the balance of potential return trip utilization. Additionally, proposed operations contemplate the trucking of diesel fuel to train depots. These trucking impacts must be included in the analysis, including all associated air quality and greenhouse gas emission impacts.



Section 2.1, Page 2-4 - Another issue requiring detailed study is the potential for hauling Solid Waste from a three to four county area. In addition to economic considerations there is a concern about leachates leaking from the bottom of the solid waste load and debris flying out of the top of the solid waste container, which can occur if the mesh net covering the load fails. Currently such failures merely add to the debris that is routinely collected along the highway. If hauled by rail, there is not allowance for cleaning the ROW, so the debris will just accumulate.

Section 3.1, Page 3-2 - Potential environmental factors should also include impact analysis on Agriculture Resources, Mineral Resources, Recreation, Population/Housing, and Vibration/Noise.

Section 3.2.2, Page 3-6 - The EIR should determine if passing tracks required with high levels of freight traffic will require additional sidings in the farmlands along the rail ROW, some lands being under the Williamson Act contracts.

Section 3.2.3 - Page 3-7 - It is claimed that train operations will improve air quality and reduce greenhouse gas emissions. Air quality analysis should be based on (1) Current emission standards and fuel economy, (2) Advanced technology for emissions and fuel economy and (3) The continued operation of old diesel engines that are grandfathered, for continued use. The Lease Agreement with the rail operator does not state which of the three air quality conditions and greenhouse gas emissions will be assumed by NCRA in the EIR. A casual observation of existing NCRA equipment suggests it is very old and in poor repair. In any event, the EIR should analyze all three air quality alternative modes of operation.

NCRA documents suggest that a significant percentage of the freight is to provide ingredients for the feed mills located along the track. The EIR should determine if these potential sites will have effective, operable dust collection equipment that controls particulate air quality impacts during the unloading process.

Section 3.2.6, Page 3-12 - Rising water tables resulting from rising sea levels may cause additional liquefaction and require analysis.

Section 3.2.7, Page 3-13 - The EIR should consider train loads of solid wastes as being a hazardous material considering that there are many homes and businesses in close proximity to the rail line. The large quantities of solid waste will present a potential health hazard.

Section 3.2.8, Page 3-17 - Rising sea levels should be a hydrological factor to be considered in the EIR.

Section 3.2.9, Page 3-20 - Item a) is incorrect. Frequent rail operations will divide neighborhoods through Novato including Olive Ave., and Grant Avenue.



Section 3.2.11, Page 3-22 - This section should be renamed Noise AND VIBRATION. The EIR should include a detailed analysis of vibration impacts on persons and equipment adjacent to the rail ROW. Of specific concern would be the impact of vibration on the reliability and safety of all the anticipated medical and surgical procedures to be used at Novato Community Hospital.

Section 3.2.13, Page 3-24 - The long trains described by the freight operator will have serious impact on the at-grade crossings resulting in degraded service provided by police and fire protection. This impact must be analyzed.

Section 3.2.15, Page 3-26 - The EIR should evaluate the funding impact of the freight rail system on SMART and Regional Highways. In the case of SMART, the freight and commuter rail operations will be competing for Federal and State operating subsidies. The EIR should determine how the buildout of SMART and the NCRA rail system could be delayed or eliminated due to inadequate funding support. Likewise, an assessment should be made to determine the impact of NCRA funding on Highway funding. For example will freight subsidies delay the completion of the HOV lanes in Marin and Sonoma and the completion of the Willits highway bypass? The EIR should evaluate the environmental impacts of any such delays.

It is essential that the EIR should also include an evaluation of the impact on reliable scheduling of the commuter rail system resulting from the freight traffic. The evaluation will have to be based on the details of the Operating Agreement between NCRA and the rail operator and the approval of this agreement by SMART.

As mentioned on Page 2 of this letter, a range of freight traffic should be evaluated. It is also necessary to determine what right-of-way traffic conditions will occur that will force freight traffic to be scheduled at night, with its added impacts on surrounding occupied structures.

Sincerely yours,

A handwritten signature in cursive script that reads "Roger Roberts".

Roger Roberts  
President