

Linda Wilshusen

From: Linda Wilshusen
Sent: Tuesday, February 17, 2004 4:14 PM
To: Bill Comfort (billcomfort@worldnet.att.net)
Cc: Karena Pushnik; Luis Mendez; jimi conklin (scbuscoun@aol.com); Stanley Feinsod (sfeinsod@systrausa.com); Pat Dellin
Subject: FW: Response to the Questions You Raised at the December Business Council Meeting

Dear Bill:

This e-mail note is to address the questions regarding the rail line acquisition & recreational rail project which you presented to the Santa Cruz County Business Council at their December 5, 2003 meeting. I apologize for the delay in responding to you, but as you know, these questions were presented to the general membership of the Business Council at a meeting we were not invited to attend.

RESPONSE TO BILL COMFORT'S QUESTIONS POSED AT THE DECEMBER 2003 SANTA CRUZ COUNTY BUSINESS COUNCIL GENERAL MEETING:

1. What will the annual County tax revenue loss be if we own the ROW instead of UP?

RESPONSE: The railroad property is assessed by the State. According to the County, the UP property is grossly under assessed at about \$2.8 million and UP pays about \$28,000 annually in property taxes.

2. If toxic wastes are discovered, and we understand that UP will not let us on the site for an assessment until a "deal is on the table", where will funds for clean up come from?

RESPONSE: The RTC has repeatedly stated that it will not be responsible for any significant remediation of hazardous materials contamination on the rail line ROW and its negotiations with UP have been based on that position.

3. Where will funds for environmental mitigation/remediation come from?

RESPONSE: Please refer to the response to question 2.

4. Part of the cost of "operating the property", independent of a bicycle/pedestrian path or future transportation purposes, is liability insurance. What will be the annual cost of liability insurance for the following scenarios?

- a. We own it with no activities (other than freight).
- b. We have a bicycle/pedestrian path on it with no rail service of any kind.
- c. We have recreational rail with freight as currently defined.
- d. We have a bicycle/pedestrian path with freight.

RESPONSE: The RTC will be analyzing the liability exposure, necessary liability insurance, and insurance premium costs as part of a Business Plan currently being developed. The RTC has repeatedly stated that it does not intend to use existing transportation funds to pay for any ongoing costs for a rail operation; therefore, whatever the cost for liability insurance, the RTC intends that it will be covered by revenues generated from the rail operations. Liability and insurance issues associated with the rail trail will be analyzed in the Coastal Rail/Trail Master Plan. Please note: Option B. of your list is not an option under consideration.

5. What will the annual cost be for maintenance of way (including rails, ties, ballast, trestles, and safety devices) for freight use and where will funds come from?

RESPONSE: This will be analyzed in the Business Plan. It is expected that the rail line will be maintained by the freight operator. Refer also to the response to question 4.

6. What will the annual cost be for maintenance of the rail grade crossings, and where will that come from? Do we pay all of the cost for this now - if not what fraction do we

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pay?

RESPONSE: This will be analyzed in the Business Plan. Refer to the responses to questions 4 and 5.

7. Are the \$10,000,000 in STIP funds needed to match the Prop 116 funds available?

RESPONSE: Yes, Proposition 116 funds used for recreational rail service must be matched dollar for dollar. Therefore, the \$10,000,000 in STIP funds satisfy that match requirement. Due to the State budget crisis, FY 03-04 STIP funds are not currently available for allocation. Consistent with State requirements, the RTC is developing the 2004 Regional Transportation Improvement Program (RTIP) which will address the STIP situation.

8. If recreation rail is unsustainable and we have to pay back Proposition 116 funds (assuming we remain committed to owning the ROW), there appear to be two options:

a. Pay back the funds with new transportation funds, in which case, what ones could be used?

b. Subsidize a portion of the operation of the recreational rail, in which case; what funds could be used on an ongoing basis?

RESPONSE: According to the California Transportation Commission (CTC) as long as there is some passenger rail service on the rail line, the Regional Transportation Commission does not have to return the Proposition 116 funds. The CTC is willing to work with the RTC on alternate rail service plans. There has only been one case in which a local agency returned Proposition 116 funds, but only because that is what the local agency wanted to do. Several recreational rail service operators have expressed interest in the RTC's proposed recreational rail service because they believe that it will be profitable. Recreational rail service operators have also expressed interest in other potential rail service routes in Santa Cruz County which they also believe will be profitable. The RTC has indicated that it does not intend to subsidize recreational rail service operations.

9. If litigation is pursued against recreational rail, from where will the funds to defend against such litigation come?

RESPONSE: The Regional Transportation Commission currently contracts with County Counsel for its legal needs and counsel is reimbursed for its costs by program; therefore, potential litigation against the RTC Rail Trail Authority would be reimbursed from Authority funds. If litigation pursued against the RTC/Rail Trail Authority for the proposed recreational rail service is found to be groundless, it is likely that the plaintiff will be required to pay the RTC's defense costs. The cost to the RTC for any potential litigation would depend on the nature of the litigation.

10. Is it true that if we were not pursuing recreational rail in order to access Proposition 116 funds, we could save over \$1,000,000 in capital costs for stations, storage track, and peripheral equipment?

Answer: No. The \$1,000,000 in Proposition 116 funds for capital costs for stations, storage track, and peripheral equipment would not be available to the Commission at all if the Commission does not pursue recreational rail. In reality, if unsubsidized recreational rail service is not pursued, the Commission would lose the full \$11 M in Proposition 116 funds and would have to find \$11 M in other transportation funds to complete a funding package to purchase the rail line, thereby delaying the acquisition and diverting funds from other local transportation projects.