

AGENDA: April 3, 2003

TO: Regional Transportation Commission

FROM: Linda Wilshusen, Executive Director

RE: Santa Cruz Branch Rail Line Acquisition – Authorization to Prepare Draft Proposition 116 Application and Environmental Impact Report Request for Proposals

RECOMMENDATION

The Rail Line Acquisition Staff Advisory Group recommends that the Regional Transportation Commission:

1. Authorize the staff to develop and return to the Commission with a draft Proposition 116 Application for acquisition of the Santa Cruz Branch Rail Line and Capitola to Aptos recreational rail service;
 2. Direct staff to return to the May 1, 2003 meeting with a draft Request for Proposals (RFP) and draft Scope of Work for an environmental impact report of the proposed Capitola - Aptos recreational rail service; and
 3. Approve the resolution (Attachment 1) authorizing staff to renegotiate the existing contract with Geomatrix Consultants for the Phase II Environmental Site Assessment of the Santa Cruz Branch Rail Line at a maximum cost of \$120,000.
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BACKGROUND

The Regional Transportation Commission was allocated \$11 million for passenger rail service in Santa Cruz County in the Proposition 116 Clean Air and Transportation Improvement Act, approved by California voters in 1990. Commission and California Transportation Commission (CTC) staff have been discussing Propositions 116 requirements and options at different points over the past few years. Also during various periods over the past 13 years, including at the present time, the Commission has been in discussions and/or negotiations with Southern Pacific Railroad, and now Union Pacific, regarding public acquisition of the Santa Cruz Branch Rail Line.

In 1995, a joint Net Liquidation Value (NLV) appraisal estimated a value of \$14.6 million for the Santa Cruz Branch Rail Line right-of-way (ROW). In 1999, after the conclusion of the Major Transportation Investment Study (MTIS) for the Watsonville to Santa Cruz to UCSC corridor, the Regional Transportation Commission adopted a 15-year program of projects for the corridor.

Purchase of the Santa Cruz Branch Rail Line for future transportation uses is included in the adopted corridor program.

In September 2000, the Regional Transportation Commission set aside \$10 million in Regional Share State Transportation Improvement Program (STIP) funds for purchase of the ROW. In cooperation with Senator Bruce McPherson, who authored SB 465, the Regional Transportation Commission established itself as a Rail/Trail Authority in 2001 and secured the services of Hyde, Miller, Owen & Trost to reinitiate real estate negotiations with Union Pacific Railroad. Just recently, Congressman Sam Farr secured a \$1.5 million federal appropriation to assist with funding the acquisition.

The Regional Transportation Commission established a Rail Line Acquisition Staff Advisory Group to advise our property negotiator, staff and the Commission on the acquisition and negotiations with Union Pacific (UP). Active members of the committee include Jeff Almquist (Commission liaison), Pat Busch (County Administrative Office), Rahn Garcia (Chief Deputy County Counsel), Andy Schiffrin (Aide to Supervisor Wormhoudt and Commission Alternate), Bob Scott (Technical Advisory to the RTC), Les White (Santa Cruz Metro), and Commission staff. The Santa Cruz and Watsonville City Managers are also represented on the committee and receive agenda materials. Commission Chair Beautz sent a representative to the most recent meeting of the committee.

The Commission has been advised of progress with UP negotiations in periodic closed sessions consistent with Gov. Code section 54956.8 pertaining to real property negotiations. In order to access Proposition 116 funds for the acquisition, open session discussion and action regarding a consideration of a Proposition 116 application and associated environmental impact report is appropriate.

DISCUSSION

Proposition 116: Brief History & Requirements

In 1990 California voters passed Proposition 116, which established the Clean Air and Transportation Improvement Act of 1990 (Public Utilities Code (PUC) section 99600 et seq). The main purpose of Proposition 116 was to provide bond funds to finance new rail projects. Proposition 116 defines a rail project as, “a commuter passenger rail service project, an intercity passenger rail project, or a rail transit project.” Expenditures for rail right-of-way acquisition and corridor preservation are allowed. In order to ensure that use of Proposition 116 funds meets its legislative purpose, the CTC requires applicants to submit a passenger rail operating plan as part of the funding request.

The Proposition 116 application used by the CTC is a “Uniform Transit Application”. Once an administrative draft application is developed by the lead agency, it is standard practice to invite CTC and Caltrans staff review of the draft to ensure that it is adequate and complete. Upon submittal of a final application, CTC and Caltrans process the application, which normally takes

60 days, for consideration by the CTC at one of its regular monthly meetings. The CTC usually takes action at the same meeting to approve a Proposition 116 project and allocate funds.

Santa Cruz County Proposition 116 Funds

Proposition 116 includes \$11 million for Santa Cruz County in PUC Section 99640 which states the following:

99640. Eleven million dollars (\$11,000,000) shall be allocated to the Santa Cruz County Transportation Commission for the following:

(a) Intercity passenger rail projects connecting the City of Santa Cruz with the Watsonville Junction.

(b) Other rail projects within Santa Cruz County which facilitate recreational, commuter, intercity and intercounty travel.

Attachment 2 includes this and other relevant PUC language. If Santa Cruz County uses the \$11 million for a rail project under Section 99640(b), Proposition 116 funds must be matched dollar for dollar per PUC 99665. The programmed STIP and federal funds will provide this required match.

At the conclusion of the MTIS, the Regional Transportation Commission decided not to pursue a rail transit project in the short term, but determined to acquire the Santa Cruz Branch Rail Line for future transportation uses. In May 2000, the Commission Chair and staff met with representatives of the CTC regarding using the Proposition 116 funds for acquisition of the Santa Cruz Branch Rail Line ROW. The CTC representatives responded that without a definite passenger rail service plan for the ROW, the Regional Transportation Commission could not access the funds as it would be inconsistent with state law.

The Commission subsequently requested that staff investigate the possibility of trading the Proposition 116 funds for more flexible funds with an agency that still has Proposition 116 funds. The other remaining agencies with unallocated Proposition 116 funds (Transportation Agency for Monterey County, Sonoma Marin Area Rail Transit (SMART) District, and the City of Irvine) have all indicated that they do not have flexible local funds available for trade. Also it is not clear that Proposition 116 would allow a funding trade because Proposition 116 funds cannot be used to displace funds that would otherwise be used for rail or other public transportation projects per PUC 99611.

Therefore, staff and Kirk Trost, the Commission's negotiator, renewed discussions with CTC staff last year about using the Proposition 116 funds for acquisition of the ROW. CTC staff again indicated that it would be possible to request an allocation of funds for the acquisition as long as the request included a passenger rail operating plan. After consultation with the Rail Acquisition Staff Advisory Group and the Regional Transportation Commission in the context of real property negotiations, Kirk Trost and staff consulted with CTC staff again in February 2003. CTC staff indicated that an application with a limited recreational rail project would meet the requirements of Proposition 116 and recommended that the Regional Transportation Commission submit an application.

Intra-County Recreational Rail Options – Preliminary Analysis Forms Basis for Proposition 116 Application Rail Operating Plan

To assist with negotiations with Union Pacific RR and to broaden the Commission’s understanding of options associated with Proposition 116 requirements, Alta Transportation Consultants, subconsultants to Hyde, Miller, Owen & Trost, prepared an informational report on which the attached draft report “*Intra-County Recreational Rail Options – Preliminary Analysis*” (Attachment 3) is based. This preliminary report includes the following four “limited” recreational rail scenarios:

- Capitola Village to Aptos Village, with a possible extension to Seascapes Resort
- Santa Cruz to Capitola Village
- Santa Cruz to Davenport
- Santa Cruz – Junction of Highways 1 and 9

The report reviews the elements of successful recreational rail operations nationwide, presents a summary of possible operating characteristics for the above four scenarios, presents preliminary capital and operating forecasts for three of the scenarios, and provides a number of preliminary conclusions. All of the options assume that there will be no public subsidy of the recreational rail service options. The report is intended to provide a starting point for further development of a Commission-selected option, as the basis for the operating plan to be included in the Proposition 116 application and the associated environmental impact report (discussed below).

Based on its review and discussion of the administrative draft *Recreational Rail Options – Preliminary Analysis*, **the Rail Line Acquisition Staff Advisory Group recommends that the Regional Transportation Commission authorize staff to develop a draft Proposition 116 application for acquisition of the Santa Cruz Branch Rail Line, including an operating plan for recreational rail service between Capitola Village and Aptos Village.** The Staff Advisory Group determined that this option would have the most chance of achieving successful operations in the short term. After review of the administrative draft application by CTC and Caltrans staff, Commission staff would return to the Regional Transportation Commission for authorization to submit the final Proposition 116 application.

Environmental Impact Report Required by RTC for Passenger Rail Service

Policy 2.4.6 of the *2001 Santa Cruz County Regional Transportation Plan* states that the Regional Transportation Commission shall:

Retain the option of future in-county passenger rail service for when it is financially feasible, acceptable to the community, and only after completion of an environmental impact report that concludes that all the significant impacts can be satisfactorily mitigated.

Although not required by State or Federal environmental laws, this policy means that the recreational passenger rail option proposed as part of the Proposition 116 application will be subject to the CEQA process, as determined by the Regional Transportation Commission.

In 1998, the Commission programmed and has already obligated \$225,000 in Regional Share STIP funds to prepare environmental review/environmental impact reports and environmental site assessments in connection with the ROW acquisition. A little less than \$20,000 has been expended to complete environmental review work of the acquisition itself (Attachment 4). It is expected that \$120,000 will be needed to complete the required Phase II Environmental Site Assessment (see discussion below). This leaves \$85,000 for the completion of an environmental impact report for the proposed Capitola - Aptos recreational rail service. These STIP funds must be spent by the end of February, 2004.

Therefore, the Rail Line Acquisition Staff Advisory Group recommends that the Regional Transportation Commission direct staff to return to the May 1, 2003 meeting with a draft request for proposals and scope of work for the environmental impact report for the proposed Capitola - Aptos recreational rail service.

Phase II Environmental Site Assessment – Update Contract

In the early part of 2000, the Regional Transportation Commission sought proposals for conducting a Phase II Environmental Site Assessment of the Santa Cruz Branch Rail Line ROW. The proposal submitted by Geomatrix Consultants in March 2000 was selected and a contract for the work was issued in September 2000. However, UP's standard practice is to refuse a right-of-entry for Phase II Environmental Site Assessments until there is agreement on price with a potential buyer. Nevertheless, because the funds for this work will be lost if the work is not completed by February 2004, UP has indicated that it may grant a right-of-entry if the Phase II Environmental Site Assessment remains confidential until a price agreement is reached.

Geomatrix Consultants indicated that their rates have increased over the three years since their proposal was first submitted; therefore, the cost to perform the Phase II Environmental Site Assessment will be higher. The original proposal listed a cost of \$95,900 to \$108,200 and a contract for \$100,000 was issued. The current cost is expected to be between \$117,500 and \$129,800. The original and updated costs are shown on Attachment 5.

The Rail Acquisition Staff Advisory Group recommends that the Regional Transportation Commission approve a resolution (Attachment 1) authorizing the Executive Director to renegotiate the contract with Geomatrix Consultants for the Phase II Environmental Site Assessment to update the contract price to a maximum of \$120,000.

SUMMARY

The SCCRTC continues to negotiate the sale of the Santa Cruz Branch Rail Line with Union Pacific. Proposition 116 funds are available for the ROW acquisition if a passenger rail operating plan is included in the application. In order to secure Proposition 116 funds for the project, the Rail Line Acquisition Staff Advisory Group recommends that the Regional Transportation Commission authorize staff to develop a draft Proposition 116 application for acquisition of the Santa Cruz Branch Rail Line and limited recreational rail service between

Capitola Village and Aptos Village, and that a Request for Proposals be drafted for an environmental impact report for the proposed rail service, consistent with Commission policy. The contract for the Phase II Environmental Site Assessment was signed three years ago and updated costs necessitate an updated authorizing resolution.

Attachments:

1. Draft Resolution
2. Excerpts from Proposition 116 Statutes
3. *Intra-County Recreational Rail Options – Preliminary Analysis* (Hyde, Miller, Owen & Trost)
4. CEQA & NEPA Notice of Determination for Rail Acquisition Project
5. Original and Updated Costs for Phase II Environmental Site Assessment

cc: Rail Line Acquisition Staff Advisory Group

Prepared by: Luis Pavel Mendez, Senior Transportation Planner
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31. Santa Cruz Branch Rail Line Acquisition - Authorization to Prepare Draft Proposition 116 Application and Request for Proposals for Environmental Impact Report

Senior Planner Luis Mendez gave the staff report saying that Proposition 116 funds are available for the right-of-way acquisition as long as implementation of a passenger rail operating plan is included in the application. In order to secure these funds, the Rail Line Acquisition Staff Advisory Group recommends that the Regional Transportation Commission authorize staff to develop a draft Proposition 116 application for acquisition of the Santa Cruz Branch Rail Line with limited recreational rail service between Capitola Village and Aptos Village, and that a Request for Proposals be drafted for an environmental impact report for the proposed rail service, consistent with Commission policy. Since the contract for the Phase II Environmental Site Assessment was signed three years ago, updated costs necessitate an updated authorizing resolution.

Mr. Mendez said that the plan for limited recreational rail service does not require public subsidy. He said that since Proposition 116 funds must be spent by February 2004, it is expected that Union Pacific will allow right of entry for environmental site assessment.

Mr. Mendez introduced Kirk Trost, the Commission's negotiator with Union Pacific Railroad.

Mr. Trost said that the report prepared by Hyde, Miller, Owen and Trost was a preliminary analysis and that more details needed to be worked out before a recommendation to acquire the corridor could be made. He clarified two items in the analysis: that Big Trees Railroad is a Class 1 railroad and that he intends to go forward with the assumption that capital improvements will be paid for with Proposition 116 funds.

Commissioner Fitzmaurice asked if applying for funding committed the Commission to go forward with the project. Mr. Trost answered it did not.

Commissioner Norton asked if the Proposition 116 funds would be lost if they were not used.

Executive Director Wilshusen responded that the \$11 million allocated to Santa Cruz would go to another county if it were not programmed by 2010.

Commissioner Beautz brought up issues including liability and toxic cleanup saying that her recollection was that the original motion was to look into a bike and pedestrian path.

Ms. Beautz also asked if the Commission would have to reimburse the Proposition 116 funds if the recreational rail

service failed financially.

Mr. Trost said he could not answer specifically at this time but said that the present plan did not impose conditions on the funding and that if the California Transportation Commission did require conditions, they would be brought to Commission before any decisions were made.

Commissioner Campos suggested that guidelines could include that right-of-way and environmental cleanups would be paid for within the \$22.5 million allocated for right-of-way purchase and that the \$11 million of Proposition 116 funds would not have to be returned. Mr. Campos also suggested that Union Pacific be responsible for maintenance and said that a bike/pedestrian path should take precedence over recreational rail.

Mr. Trost said that many details needed to be worked out and that the business plan will address the maintenance and other issues.

Commissioner Beautz proposed a Public Hearing in May to be held in the evening and directed staff to bring the draft application and scope of work back to the Commission at that time.

Director Wilshusen agreed that a Public Hearing was appropriate and that the application would then most appropriately be drafted at the hearing.

Commissioner Beautz said she would approve the staff recommendations with the addition of an evening Public Hearing.

Public comment was heard.

Barbara Graves supported applying for Proposition 116 funds.

Micah Posner said there was a lot of support for the Branch Rail Line acquisition and suggested that the County begin eminent domain proceedings.

Cliff Walters said that Roaring Camp was interested in being the operator for the recreational rail and would like to see the Environmental Impact Report expanded, especially to Davenport, which might make the plan more acceptable to the CTC. Mr. Walters said that maintenance of the rail line is viable and that Roaring Camp can work out a business plan that did not rely on fare box subsidies or funding diverted from bus transit projects.

Ross Gibson agreed that the EIR should be expanded to ensure that enough service is provided to obtain state approval.

Greg Kindig supported right-of-way acquisition and for him to support a sales tax for highway needs he would have to see a commitment to rail service development.

John Hilliard said the rail line was a great idea and that train stops should be near bus stops.

Commissioner Almquist moved to approve the staff recommendations to:

1. Authorize the staff to develop and return to the Commission with a draft Proposition 116 Application for acquisition of the Santa Cruz Branch Rail Line including an operational plan and Capitola to Aptos recreational rail service;
2. Direct staff to return to the May 1, 2003 meeting with a draft Request for Proposals (RFP) and draft Scope of Work for an environmental impact report of the proposed Capitola - Aptos recreational rail service; and
3. Approve resolution (44-03) authorizing staff to renegotiate the existing contract with Geomatrix Consultants for the Phase II Environmental Site Assessment of the Santa Cruz Branch Rail Line at a maximum cost of \$120,000;

with addition that there be an evening Public Hearing May1st. Commissioner Fitzmaurice seconded and the motion passed unanimously.

Commissioner Almquist said that the items brought forth by Commissioner Campos could be discussed at the April Transportation Policy Workshop.