

Attachment 9

Responses to Commissioner Spence's Written Questions

1. The Letter of Intent between SCCRTC and UP for purchase of the Santa Cruz Branch Rail Line does not include inspection of UP's books. As negotiations with UP continue for a purchase agreement, which will include switching rates for short line operators, it is expected that UP will provide necessary financial information for the Commission to make a reasoned decision on the acquisition.
2. The hiring of additional staff or consultants to provide the necessary management functions for ownership and of the Santa Cruz Branch Rail Line and management of the operations will be discussed with the Budget and Administration/Personnel Committee and staff will return to the RTC with a recommendation. The RTC may decide to hire new staff, hire consultants or institute a combination of the two options. The cost in the business plan includes benefits as well as salary.
3. The draft financial plan for the Santa Cruz Branch Rail Line Acquisition Project, provided to the RTC at its January 6, 2005 meeting and included in this report as Attachment 10 (attached separately), shows that of the \$10.7 million in Proposition 116 funds \$8,315,000 would be used for acquisition and \$2,375,000 would be used for the improvements necessary to initiate recreational rail service. Tables H-1 and I-1 from the draft Business Plan, referenced by Commissioner Spence and included in this report as Attachments 11 and 12, list, under the column headed "MAKE INVESTMENT?", under what conditions the investments are needed. The investment amounts listed in Commissioner Spence's question are needed if the RTC decides to upgrade the track to Class 2 in order to run freight and passenger service at faster speeds. Class 1 is sufficient to run freight service at the current speed of 10 miles per hour and passenger service at the proposed speed of 15 miles per hour. The expenditure required to continue freight service at the current speed, \$74,000, is shown in the draft financial plan as line 7 in the ROW acquisition section and the expenditure for improvements needed for the proposed recreational rail service, \$2,375,000, is shown as line 5 in the recreational rail service section.
4. An AB3090 designation states that a project designated for AB3090 reimbursement is the highest priority project for that region for that fiscal year. The proposed AB3090 payback year for Rail Acquisition is FY08-09. The MetroBase project is funded in an earlier year of the STIP, FY06-07 and in normal years the Transit District would be confident that it could submit and receive a STIP allocation in FY06-07. However, the state transportation funding situation is clearly in crisis due to last year's actions and if the Governor's proposed budget progresses without change. STIP funded projects are likely to continue to experience delays in receiving their funding over the next few years. It is too early to tell what level of state transportation funding will be available three and a-half years from now when the Rail Acquisition project will be in line for a STIP allocation. If there are no additional funds in the State Transportation Improvement Program (STIP) for projects without an AB3090 designation at that time, the other projects will likely be delayed.

5. RTC staff has been working with CTC and Caltrans staff to clarify deadlines and the timeline for Commission action on submitting requests to the CTC for their approval of Proposition 116 funds and AB3090 payback. The RTC will make its final decision on purchasing the rail line in August – that is when the RTC will decide on its final financial plan, including whether to use the Proposition 116 funds for that purpose. If the RTC decides not to use the funds for acquisition of the Santa Cruz Branch Rail Line, the funds will go back to the CTC and if by 2010 the RTC has not used the funds, they will be assigned to another passenger rail project in the state.
6. Due to the projected closing date of September 23, 2005, the timeline is aggressive and a number of items must be done concurrently. The timeline assumes that the various reports being produced will determine that there are no significant issues with this acquisition. If one of the reports determines that there is an issue that requires a significant amount of time to address, the timeline may need to be adjusted.
7. The Caltrans ROW Division will not approve the acquisition of this property if contamination is found on the property and it is not addressed. The “as is” statement assumes that contamination is not present on the property. If the Phase II Environmental Site Assessment discovers that contamination is present, the RTC will need to negotiate a remediation plan with UP and if the RTC is not satisfied, the RTC can walk away from the transaction.
8. Union Pacific will not provide a right of entry agreement for the Phase II Environmental Site Assessment without a confidentiality provision. UP’s standard practice is to not allow public disclosure of Phase II investigations until after a transaction is completed. Due to the Commission’s interest in sharing this information with the public, the Commission’s lead negotiator is attempting to negotiate a confidentiality agreement that allows public disclosure prior to closing the transaction and with some time to allow for public input.
9. The *Business Plan* is a living document and information from operators’ proposals, UP’s financial information on the Santa Cruz Branch Rail Line, the structural analysis, the lease investigation, and other reports will feed into the *Business Plan*. The *Business Plan* could be updated every step of the way but that may prove very difficult and time consuming as additional information will be streaming in constantly over the upcoming months. Therefore, the timeline proposes updating the *Business Plan* once all of the additional information is available.
10. Due to the expected closing date of September 23, 2005, the timeline is aggressive and a number of items must be done concurrently. Interested operators will have information from the Business Plan. In addition, interested operators will rely on their own expertise and projections in formulating their proposals. As more information becomes available, the Commission and the chosen operator will factor that information into their negotiations on the contract to provide service.