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**RMC PACIFIC MATERIALS**



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## **RMC Pacific Materials**

### **Position Paper on the Santa Cruz County Regional Transportation Commission Purchase of the Union Pacific Santa Cruz Branch Line**

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**I. RMC Interest**

RMC Pacific Materials Davenport Cement Plant (RMC) has a large vested interest in the Santa Cruz Branch Line. This railroad corridor, currently owned and operated by the Union Pacific Railroad is a vital link between RMC and its incoming raw material suppliers and between RMC and its bulk cement customers. Any change in the *status quo* of the Santa Cruz Branch Line is of great interest to RMC. This position paper is being offered by RMC. It represents RMC's assessment of the proposed acquisition of the Branch Line and the subsequent assumption of freight service responsibility by the Santa Cruz County Regional Transportation Commission (RTC). It is requested that this position paper be entered into the administrative record of this acquisition project.

**II. Branch Line Acquisition Background**

For many years the Santa Cruz County Regional Transportation Commission has contemplated the purchase of the 32-mile long Union Pacific (UP) Santa Cruz Branch Line running between Watsonville (CA) and the RMC plant at Davenport. The past 18 months have seen a significant increase in RTC and Staff activities relating to this acquisition. Numerous public meetings have been held on the topic, purchase negotiations have begun between the RTC's representative and the Union Pacific, a Draft Environmental Impact Report (DEIR) has been prepared for public comment, and a Draft Business Plan (the Plan) has been issued for public review. All of these actions leave no doubt as to the seriousness of the RTC's plans for the Branch Line.

The reasons for the Branch Line acquisition are somewhat unclear. Some claim that it is to provide a corridor for a walking/cycling trail; others suggest that it is to reserve the corridor for a future commuter line. The California State Clearinghouse Database states: "The SCCRTC is proposing the acquisition as a means to preserve the rail corridor for future use by the public at large." This open-ended statement seems to leave all options on the table.

The stated purchase price of the Branch Line is approximately \$19 million. In the recent Business Plan the money for this purchase is said to be coming from Proposition 116 funds (\$11 million) and from other State Transportation Improvement Program (STIP) funds (\$10 million). None of the STIP funds are immediately available due to the current State financial crisis. The firm purchase

figures are now available as a result of acquisition negotiations, and the Union Pacific railroad has agreed on a price and the RTC has signed and presented a Letter of Intent to buy. It is still not known the actual costs, revenues, and financial risks associated with the purchase of the branch line. Union Pacific has agreed to allow the RTC to determine the presence and extent of toxic materials on the branch line property through an extended Phase II Environmental Site Assessment. The Plan has only a rough estimate of the cost of owning, operating, maintaining, and removing toxic wastes from the Branch Line. When you examine Phase II and look at just the 6-mile portion you find that there is one sampling point in Capitola and that is it. This is not representative of typical environmental concerns on the 6-mile section let along the 31 miles of track from Watsonville to Davenport.

The trail design, cost analysis, alignment, safety measures at numerous street crossings, and safety barriers that would be required for a walking/cycling trail on the branch line right of way have not been evaluated. For this reason, the Plan also does not include capital and maintenance costs, which will be required for a trail and operating freight and/or passenger rail system to coexist.

The use of Proposition 116 funds requires the implementation of a public rail transit system. The RTC has proposed a 6-mile tourist train to the Proposition 116 administrators, the California Transportation Commission (CTC). This tourist train would operate on a summer schedule between Capitola and Seaside, with as many as nine round trips per day. The Business Plan reduces this number to four to permit combined freight and tourist train operations by a single short line operator on Class 1 track.

What is known is that once the RTC buys the Union Pacific Branch Line then the UP will no longer have any responsibility for either freight operations or for corridor infrastructure repair, maintenance, or upgrading. Nor will it have any liability for incidents and accidents associated with ownership or operation of the Branch Line. All of this will pass to the RTC.

### **III RMC Community Connections**

Before discussing the Business Plan and the Branch Line acquisition, a snapshot of RMC's Davenport operations seems appropriate.

#### **A. History**

The RMC Pacific Materials Davenport Plant has been manufacturing cement since 1906. It is one of the most advanced cement manufacturing plants in the world today. Its product, portland cement, is found in major structures such as the Panama Canal, the Transamerica building and Pacific Bell Park. Much of

the rebuilding of San Francisco after the 1906 earthquake was accomplished with cement from Davenport.

B. Environment

The Davenport Plant is located in one of the most scenic and environmentally sensitive areas in Northern California, which includes the Monterey Bay National Marine Sanctuary and coastal property protected by the Trust for Public Lands. The Davenport Plant uses state-of-the-art pollution control equipment on all emissions resulting in one of the cleanest cement manufacturing processes in the world. Further, RMC has active habitat protection and land reclamation programs. Additionally, the plant's utilization of sewage effluent in manufacturing avoids treatment expenses for the sewer system and prevents discharge from going into the ocean. RMC is an environmentally responsible Santa Cruz resident.

C. Community

RMC's Davenport facility contributes significantly to the economics and welfare of both the Davenport community and to Santa Cruz County. There are approximately 130 employees at the Davenport Plant with an annual payroll tax of over \$3.5 million. RMC pays 50% of the annual water and sewer system operating costs for the Town of Davenport, approximately \$160,000. In addition the plant annually pays \$1.5 million in regulatory fees for environment protection, \$40,000 in county sales tax, and over \$800,000 dollars in county property tax. Finally, the Davenport Plant contributes to a host of programs, organizations, and activities benefiting the community including: Foundation of Bonny Doon School, Davenport Pacific School, Bonny Doon Community Foundation, Davenport Fire Station, the Bonny Doon Volunteer Fire Station, the United Way, Second Harvest Food Bank, American Red Cross, Santa Cruz Parks & Recreation, Santa Cruz High Schools, and Avon Breast Cancer Foundation to name a few. The full list is too long to include here. We are a good corporate citizen of Santa Cruz County.

**IV RMC's Interest in the Santa Cruz Branch Line and Its Operation**

As stated earlier in this paper, RMC Pacific Materials Davenport Cement Plant depends on the Union Pacific's Santa Cruz Branch Line for some of its outgoing product shipment and a majority of its incoming bulk fuel and purchased raw materials. Outbound rail cement shipments amount to 15 % of the plant's annual output. In 2004, by employing rail for our product shipment and inbound fuel and raw materials, we avoided putting 24,700 one-way truck trips on the busy highway and streets. Each truck is 75 feet long. If you parked them end-to-end you would have a line over 300 miles long. That is a lot of truck traffic that is avoided. Rail has kept this traffic off of our streets and out of the community of Santa Cruz.

Transportation costs are a significant factor in the competitive cement business. With foreign imports representing a growing fraction of the domestic demand for cement, it is vital to keep all costs, including transportation, at reasonable levels. Similarly, to keep raw materials and finished product inventories at appropriate levels RMC requires dependable and scheduled freight train service. Interruptions or delays in service will result in major disruptions of plant operations and compromise our ability to reliably service our customers. Clearly, RMC requires safe, reliable and affordable operation of the Santa Cruz Branch Line.

**V RMC's Concerns about the Business Plan**

RMC management personnel have reviewed the August 2004 Santa Cruz Branch Line Business Plan (Review draft 4.0) released to the public by the SCCRTC. The Plan addresses the acquisition of the Santa Cruz branch Line from the Union Pacific Railroad and the subsequent operation of both freight service and tourist train service along the corridor. Our initial reaction is that the Plan is more of a speculation than a business plan. This perception was reinforced when the plan was presented to the RTC by the preparer as a "living document". The absence in the Plan of any cost, revenue, and risk data from the UP makes the financial evaluations and conclusions questionable. The Plan, however, did present a scenario for the operations that is probably the only one that allows freight operations to continue and still result in some form of tourist train service.

**A. Combined Service**

The recommended scenario in the Plan calls for the combined operation of both freight and tourist trains by a single short line operator. The Big Trees and the Sierra railroads were mentioned as having interest in providing this service. The reason for combining services is to allow the short line operator to spread costs, facilities, and personnel between the two types of services. By sharing expenses the combined operation might make a marginal profit whereas the tourist train operation alone was clearly shown to lose money. In essence under the combined operation scenario the freight operation is subsidizing the tourist train business. Although combined service may make financial sense we are concerned that the tourist train will take priority over freight service. The RTC makes these decisions. To avoid repayment of the Proposition 116 funds in the event tourist train financial performance is poorer than expected, RMC fears that the RTC will favor the tourist service over the freight service. Additionally, operating both services on the same single track with the same personnel seems to us to invariably lead to operational conflicts. Tourist rail requires a strict schedule, where as the freight delivery is fraught with unexpected delays in delivery, switching and pickup. There may be safety issues as well.

**B. Subsidy and Rates**

The buried public subsidy of the tourist train by the freight business is of great concern to RMC since our company accounts for over 75% of the traffic on the Branch Line. The footnote to Table 5-1 in the Plan indicates that the short line operator's revenue from freight traffic is higher than an earlier study because of "... assumed higher rates for the Davenport traffic." We stated in Section IV above that freight rates have a significant effect on product pricing and competitiveness for our business. Unpredictable rate increases severely penalize RMC. This is particularly vexing when we find that indirectly a portion of our freight transportation payment is going to support a financially challenged tourist train. Of greater concern to RMC and the other rail customers, which make up the major source of revenue so there would be the temptation to make up operating deficits by simply raising freight rates.

Related to the rate issue is that statement in the Plan that the Union Pacific annually loses \$323,000 on a cash basis and \$1.8 million on an accounting basis in the operation of the Branch Line. Overall, the UP makes money with the off-line traffic. We do not think the numbers are correct. We understand that the numbers came out of the report in the Plan and request that the RTC look closely at them again and verify their accuracy. Of concern to RMC is that financial stress will cause the short line operator to reduce service to save money or greatly raise rates to cover any shortfall. For example, this could take the form of fewer locomotives, longer maintenance cycles, or shorter crew and staff hours. Any of these can have a negative effect on reliable delivery or shipping of RMC's materials. Is the RTC willing to compensate the rail freight customers for materials delay costs if the delay is the fault of the short line operator? RMC is a major stakeholder in this transaction. Seeing that the rates negotiated with the second hauler will impact our business, we strongly recommend that RMC be included in the negotiation and selection of the short haul operator.

### C. Infrastructure

Another item of concern to us is the Plan's lack of a detailed assessment of the complete rail corridor. Similarly there is no discussion of the funds and their timing for correcting what we feel is a deteriorating infrastructure. The Plan states that more than half the track has only about 10 years of life remaining. We believe that many over-crossings are in need of serious refurbishment, possibly replacement. If in the future it were necessary to replace a cross-over or upgrade a section of the track, such an interruption of service on a sustained basis would be detrimental to our operations. It would seriously impact our customers, which include high profile jobs such as the Oakland Bay Bridge. The key to preventing this is to spend the money on the maintenance and repair before there is a catastrophic failure. We found no discussion in the Plan of the condition of the trestles and bridges, nor did we find any reserve account for the maintenance, repair, or replacement of over-crossings or track. We think that this is a serious omission in the Plan.

Maintenance of way costs listed in the report are underestimated based on the 1997 *Going Concern Value of the Santa Cruz Branch Line*. We find it difficult to believe that seven years after the report was written, the cost has reduced by 25%.

D. Liability and Insurance

Because our freight is carried on most of the right-of-way almost exclusively, we have great concern that RMC might become entangled in legal actions taken against the short line operator, the RTC, or the County. This concern is considerably increased if recreational rail is present and is exacerbated by the obvious foolhardiness of some of those promoting the rail trail.

Additional environmental liabilities are likely. Environmental concerns have not been looked at along the entire length of the 31 miles of track from Watsonville to Davenport. No one has any idea of what has happened in the past. Having tested only one sample spot along the proposed six miles of the proposed recreational rail route will not provide adequate background to determine what exposure may be there.

E. Business Plan Focus

In an overall sense, RMC finds that the Plan seems to focus on how to make the tourist train become a reality and how the right-of-way land can be obtained. It really does not look at the factors that affect the customers of the freight portion of the business, nor does it really examine in any detail the responsibilities and financial risks that accompany RTC ownership and operation of a railroad. As you know, under Federal law freight service cannot be unilaterally discontinued. This makes the RTC, the owner of the track, not the short line operator, responsible for continuing reliable freight service.

RMC is prepared to approach the Surface Transportation Board (STB) with a request to continue to maintain our rights in regards to freight operations. RMC requests the RTC to address this important business issue in an open forum. We request also that the RTC divulge the status of the STB approval activities.

VI **RMC Position**

RMC Pacific Materials is alarmed that the RTC is entering the railroad business with no background in this industry and from what we can determine, minimal regard for the vital nature of the freight service and RMC's interests. Our experience over the years with the Union Pacific and its predecessor the Southern Pacific has been generally favorable. Issues have been remedied in a timely fashion as expected in the shipper-carrier relationship. RTC ownership and operation of the Santa Cruz Branch Line with freight and tourist train operations

sublet to an unidentified short line operator gives us concern. We are not currently part of the negotiations between the RTC and the Union Pacific, nor have we been asked to become involved in the short line operator selection process. RMC suggests the following:

1. A representative of RMC Pacific Materials shall be briefed on the Branch Line acquisition negotiations to date. And a RMC Pacific Materials representative shall be present in all future acquisition negotiations.
2. A representative of RMC Pacific Materials shall participate in the writing of a requirements document or scope-of-work for the short line operator. It is assumed that the RTC will go through a formal competitive bidding process for the selection of a short line operator.
3. RMC shall participate in the short line operator selection process.
4. RMC and the RTC, with or without its subcontracted short line operator, shall engage in negotiations for a freight rate and freight service contract.
5. The RTC shall institute a process for the resolution of issues if they arise between the short line operator and RMC over freight rates or freight service. RMC will continue to negotiate with the Union Pacific as the major freight hauler. However, if it is required that the RTC short line contract must be separately negotiated, then RMC request that they be included in the negotiations between the RTC and the short line operator.
6. The RTC shall acknowledge that it has the ultimate responsibility for all matters relating to the Branch Line, including issues of public safety and liability.
7. The RTC and Board of Supervisors shall agree that if the rail freight cost on the branch line exceeds the cost of trucking, then the requirement to ship 15% of our product by rail should be waived.
8. Written assurance from the RTC that they will pay all attorney fees and settlement costs of any litigation associated with owning or operating the rail line.

RMC cannot overemphasize the importance of the Santa Cruz Branch Line to its operations. We are confident that the RTC would not purposefully drive a good corporate resident and substantial employer from the County. However, the railroad business should not be entered into lightly. There are many aspects of railroad ownership that are not readily apparent. We believe that the Business Plan, although well-intended, fails to fully address RMC's concerns nor does it

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give the RTC the full picture of the risks and responsibilities of railroad ownership..

RMC Pacific Material management stands ready to participate with the RTC in this important change in transportation services.

For further information regarding this Position Paper, you may contact either Satish Sheth or Ken Kannegaard.

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