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May 15, 2000

Ms. Linda Wilshusen
Executive Director
Santa Cruz County Regional Transportation Commission
1523 Pacific Avenue
Santa Cruz, CA 95060-3911

Dear Ms. Wilshusen:

Your letter of May 5, 2000 revisits conversations that we have had over the past 2-3 years pertaining to the use of \$11 million in Proposition 116 funds earmarked for passenger rail in Santa Cruz County. I find little new in your letter that would enable me to proceed with a recommendation to the Commission to authorize the use of these funds toward the purchase of railroad right of way from Union Pacific. These funds were specifically identified pursuant to Public Utilities Code Section 99640 for "intercity passenger rail projects connecting the City of Santa Cruz with the Watsonville Junction" and "other rail projects within Santa Cruz County which facilitate recreational, commuter, intercity and intercounty travel". Your letter also cites Section 99613(a)(1) as allowing the expenditure of these funds for "rail right-of-way for rail purposes".

Your letter only implies that the acquisition of this right of way might someday result in the establishment of passenger rail service. You make reference to the Santa Cruz Commission's intent "to preserve the option for future passenger rail transit service"; "to maintain the existing freight service on the line"; and "development of an adjacent bicycle and pedestrian path". You also note that public control of the right of way would "enable a range of possible future transportation uses." While certainly, as your letter states, "rail purposes" falls within the meaning of "transportation purposes", Section 99613(a)(1) of Proposition 116 is not broadly constructed to allow rail right of way acquisition for other than rail purposes. Neither freight service, nor bicycle and pedestrian facility nor "a range of possible future transportation uses" expressly or inherently complies with Proposition 116's required establishment of passenger rail service in any of its various forms. In fact, as I understand it, the Santa Cruz board debated and opted not to include an operable passenger rail service in its current 20-year plan.

Chapter 4 of Proposition 116 (Public Utilities Code Sec. 99660, et seq.) specifies requirements for an application process to access funds authorized by Proposition 116. That Chapter clearly sets forth, as its purpose, facilitating "implementation of improved cost-effective transit service". It also specifies that applications shall be accompanied by: "a plan describing how the grant funds will be used (and) what other capital funds are available for the project"; "a plan for operating any new service, including a financial plan for operation"; "the sources of the remainder of the funds required for construction and operation of any new service"; and demonstration that "a reasonable share of the cost of any new or rehabilitated passenger rail service will be covered by farebox revenue". Your letter does not explain how Santa Cruz intends to meet those requirements for passenger rail service in this corridor at the present time.

The proposal would have \$11 million in debt revenue (on which the state's taxpayers would be paying debt service for 30 years), expended for purchasing full fee title of a freight rail corridor that is not under any apparent threat of loss for possible future passenger rail service. The stated intent of continuing freight service in the corridor is a clear indication that the corridor is not threatened with abandonment or segmented sale. It would seem that the need to expend \$11 million for the **preservation** of this corridor for future rail transit is at best premature, if not unwarranted. Moreover, if Santa Cruz were to acquire the right-of-way, Santa Cruz would also acquire the liability associated with ownership.

I would submit that if the only transportation utility gained through the purchase of this corridor were for pedestrian and bicycle facilities, however worthwhile, the prescribed purposes of Proposition 116 for passenger rail service (as referenced above) would not be met. Moreover, a pedestrian and bicycle facility could be established (assuming that it were desirable to do so adjacent to an operating freight rail line) in a more economical fashion with either a long-term lease or easement adjacent to the rail tracks, rather than purchase of full fee title of the tracks and the adjacent pedestrian/bicycle corridor. (Of course, such a lease or easement would need to be accomplished with funds other than from Proposition 116 that are earmarked for passenger rail purposes.)

I understand that Santa Cruz has considered the possibility of legislative action, pursuant to Sec. 99684(b), which allows the Legislature, "by a statute passed in each house by a two-thirds vote, to reallocate those funds for other rail projects within that agency's jurisdiction" when funds remain unencumbered by July 1, 2000. However, Sec. 99605 specifies that the Legislature may amend Proposition 116 with a "four-fifths vote... if the statute is consistent with and furthers the purposes of this part...no changes shall be made in the way in which funds are allocated pursuant to Chapter 3 (commencing with Section 99620), except pursuant to Section 99684." Hence, the Legislature would have to determine whether the purchase of a railroad right of way that will remain in freight operations, without apparent threat of abandonment, for the purpose, at least in the short run, of constructing a pedestrian and bicycle facility, is in fact consistent with the intent of Proposition 116, including but not limited to "implementation of improved cost-effective transit service".

At some point, the fundamental "common sense" question must be asked: when should \$11 million in public bond revenue (and likely additional public funds) be paid to a private freight rail company who will continue to enjoy the use of this corridor:

- when the future use of the corridor for passenger service is uncertain and uncommitted?
- years in advance of such service, even if the service were in fact certain and committed?

or,

- at the time that the corridor is in fact needed to develop passenger service?
- when the corridor faces an imminent threat of abandonment and warrants preservation?

In fact, a "premature" purchase of this corridor brings into question the fundamental prohibition specified in Proposition 116, under Public Utilities Code Section 99680(c) that "funds allocated pursuant to this part shall not be used for...facilities...whose primary purpose would be to benefit a private entity or individual."

I would note that the peculiarities of Proposition 116 do not apply to federal Transportation Enhancement Activities (TEA) funds or STIP funds. Santa Cruz could opt to fund the bicycle and pedestrian facility or at least the right of way needed for such a facility with its share of TEA funds and even pursue State sponsorship for funding from the State's share of the TEA program. Moreover, Santa Cruz could commit funding from its RTIP funds for the acquisition of this rail right-of-way. Both options would have the added benefit of leaving in tact the \$11 million in Proposition 116 funds toward the actual development of passenger rail service at such time as Santa Cruz added such service to its regional plan and made it a priority for capital and operating funds.

I would be pleased to schedule consideration of this matter before the Commission's Public Transit Committee. Should you wish to do so, please let me know as soon as possible as the Committee and the Commission are scheduled to meet in San Jose June 14-15. In any event, please do not hesitate to contact Robert Chung or me for any further discussion.

Sincerely,



ROBERT J. REMEN
Executive Director

cc: Congressman Sam Farr
Senator Bruce McPherson
Assemblyman Fred Keeley
Chairman James Kellogg, California Transportation Commission
Members, California Transportation Commission



SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION

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May 5, 2000

CONGESTION
MANAGEMENT
AGENCY

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Robert Remen
Executive Director
California Transportation Commission
1120 N Street, Room 2221
PO Box 942873
Sacramento, CA 94273-0001

COMMUTE
SOLUTIONS

☐

RE: Proposition 116 Allocation for Santa Cruz County

PR
Dear Mr. Remen:

TRANSPORTATION
POLICY COMMITTEE

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In response to the April 24, 2000 letter from Kathie Jacobs, Project Manager for Proposition 116 Programs, we would like to take this opportunity to update you and the California Transportation Commission on the activities of the Santa Cruz County Regional Transportation Commission (SCCRTC) vis a vis acquisition of the Santa Cruz Branch Rail right-of way.

RAIL OVERSIGHT
COMMITTEE

☐

BUDGET &
ADMINISTRATION
PERSONNEL
COMMITTEE

☐

Consistent with the CTC's intention to assist agencies with remaining Proposition 116 funds to make expenditure of these funds a priority, the **SCCRTC would like to register its intention to request an allocation of the full \$11 million appropriated to Santa Cruz County within the next two years (Attachment 1).** However, to be able to accomplish this in timely manner and in a manner consistent with regional policies, we will need the cooperation and support of the California Transportation Commission and its staff.

INTERAGENCY
TECHNICAL
ADVISORY
COMMITTEE

☐

BICYCLE COMMITTEE

☐

ELDERLY & DISABLED
TRANSPORTATION
ADVISORY COMMITTEE

☐

The SCCRTC has designated itself as a Rail/Trail Authority in order to oversee acquisition and future development of the Santa Cruz Branch rail right-of-way. The SCCRTC's objective is to acquire the rail right-of-way for transportation purposes; environmental studies associated with the acquisition are currently underway. In the short term, the SCCRTC intends to maintain the existing freight service on the line and pursue development of an adjacent bicycle and pedestrian path. In the longer term, the rail right-of-way will be under public control to enable a range of possible future transportation uses. Attachment 2 is a staff report to the SCCRTC, approved on May 4, 2000, regarding the rail right-of-way acquisition and related matters. This staff report provides information about the status of the project and proposes a work program and budget for the upcoming two years.

WWW.SCCRTC.ORG
EMAIL:INFO@SCCRTC.ORG

The proposed rail right-of-way acquisition is the result of the SCCRTC's recent long range regional planning effort focusing on the congested Watsonville - Santa Cruz - UCSC intercity corridor. The rail right-of-way acquisition project is included in the multimodal program of projects approved at the conclusion of the SCCRTC's Major Transportation Investment Study (MTIS), all of which will address current and future travel needs in Santa Cruz County's primary intracounty corridor (see Attachment 3). We believe that the MTIS list of projects represents good planning and forward thinking on the part of local decision makers and is therefore worthy of support by our state transportation partners.

It is our understanding that **rail right-of-way acquisition is a clearly allowable expenditure under the statutes governing Proposition 116 allocations:**

Section 99613. (a)(1). Rail right-of-way for rail purposes.

You have in the past raised concerns about whether the proposed acquisition meets the "for rail purposes" aspect of the above phrase. The SCCRTC believes that its proposed acquisition of the Santa Cruz Branch Rail right-of-way "for transportation purposes" clearly indicates its position on this question. "Transportation purposes" includes all possible future uses which may improve transportation within Santa Cruz County in a manner which is consistent with SCCRTC policies, including but not limited to "rail purposes".

In addition, you have noted that an "operating plan" for passenger rail or rail transit service is a requirement of the California Transportation Commission's Proposition 116 guidelines. Because the SCCRTC is unable at this time to provide the CTC with such an operating plan due to the policies and circumstances noted above, we would nevertheless be prepared to submit an application which would include an **operations and maintenance oversight plan**, including agreements to preserve the option for future passenger rail/rail transit service, to maintain the freight service, and activities associated with short-term development of an adjacent bicycle and pedestrian path.

We appreciate your serious consideration of our regional policy position in this matter. Please let me know your response to our intentions; as always, we will continue to work closely with you and your staff on these matters.

Sincerely,



Linda Wilshusen
Executive Director

Attachments

cc: Congressman Sam Farr
Senator Bruce McPherson
Assemblymember Fred Keeley
Commissioner James W. Kellogg

Robert Chung, CTC
Kathie Jacobs, CTC
John Arriaga, JEA&Associates
Laura Cohen, Rails to Trails