



COUNTY OF HUMBOLDT

Legislation Text

File #: 21-529, **Version:** 1

To: Board of Supervisors

From: Public Works

Agenda Section: Departmental

SUBJECT:

Support Letter for Proposed Railbanking of North Coast Railroad Authority Line within Humboldt County

RECOMMENDATION(S):

That the Board of Supervisors:

1. Receive a staff report and public comment; and
2. Approve, and authorize the Chair of the Board to sign, the attached letter supporting preservation of the North Coast Railroad Authority's railroad right-of-way through railbanking for interim trail use and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

SOURCE OF FUNDING:

Bicycles and Trailways Program (1710715)

DISCUSSION:

This item contains a support letter (Attachment 1) for the North Coast Railroad Authority's ("NCRA's") proposal to railbank the railroad right-of-way from Willits to Samoa for interim trail use and potential future reactivation for continued rail service. NCRA intends to submit a railbanking application to the Surface Transportation Board ("STB") on or around May 14, 2021.

Background

The Northwestern Pacific Railroad incorporated as a private company in 1907 with the goal of establishing a continuous railroad connection between the San Francisco Bay and Humboldt Bay regions for freight and passenger service. This connection was completed in 1914. In Humboldt County, the railroad line runs along the Eel River from Alderpoint to Loleta and around Humboldt Bay through Eureka to Samoa (Attachment 2). Following a series of transactions and bankruptcies by private owners, the California legislature formed the NCRA in 1989 in an effort to preserve rail service. NCRA acquired ownership of the railroad line from Willits to Samoa in 1992. Trains operated intermittently until 1998, when heavy rains and landslides caused significant damage to the rail corridor within the Eel River canyon and the Federal Railroad Administration issued an emergency

embargo barring operation of trains on the northern portion of NCRA's line. NCRA has not been able to secure funding to repair the railroad line and restore rail service.

In 2018, Senator McGuire introduced Senate Bill SB-1029 (the North Coast Railroad Authority Closure and Transition to Trails Act) which was signed by the Governor and incorporated into Government Code Section 93000 through 93025. This legislation declared that it is in the public interest to dissolve the NCRA and transfer its right-of-way to other entities for the purpose of potentially developing a trail that could include railbanking and continuing freight where it was operational on January 1, 2018. SB-1029 required the State Transportation Agency and the State Natural Resources Agency to conduct an assessment of the most appropriate way to dissolve NCRA and dispense with its assets and liabilities, along with a preliminary assessment of the viability of constructing a trail on the entirety of, or a portion of, the NCRA railroad right-of-way, which is a combination of owned parcels and easements. The assessment report was completed in December 2020 (<https://calsta.ca.gov/subject-areas/reports>).

Senator McGuire recently introduced Senate Bill SB-69 which would transfer the southern portion of the NCRA rail line to the Sonoma-Marín Area Rapid Transit regional transportation district and transition NCRA to a successor agency that would utilize the railroad right-of-way north of Willits for developing the Great Redwood Trail. SB-69 was heard by the Senate Transportation Committee on April 13, 2021 and will continue to be routed through the legislative process.

On March 9, 2021, NCRA filed an Environmental Report/Historic Report ("ER/HR") (Attachment 3) with federal, state, tribal, and local agencies in advance of filing a railbanking request to the STB on or about May 14, 2021. NCRA's railbanking request would include the following segments:

- The main line from Willits (Milepost 139.5) to Eureka (Milepost 284.1);
- The Carlotta Branch from Alton (Milepost 262.74) to Carlotta (Milepost 267.22);
- The Korblex Branch from Eureka (Milepost 284.1) to Korblex (northern Arcata) (Milepost 295.57);
- The Samoa Branch from Arcata (Milepost 292.84) to Samoa (Milepost 300.50); and
- The Arcata and Mad River Railroad subsidiary from Korblex (Milepost 295.57) to Korbel (Milepost 301.8).

NCRA would be the interim trail manager until those rights and responsibilities are transferred to NCRA's successor agency.

Railbanking Process

The STB has exclusive authority over the construction, operation, and abandonment of rail lines that are part of the interstate rail network. Railroads operating on the interstate rail network have a statutory duty (called the "common carrier obligation") to provide transportation or service upon

reasonable request from shippers. Railroads seeking to be relieved of their common carrier obligation and discontinue railroad service must seek advance authority from the STB. Once the STB grants authority for a railroad to abandon its common carrier obligation, the railroad must exercise, or “consummate,” the abandonment authority by providing formal notice to the STB within one year of STB’s decision permitting abandonment.

In 1983, Congress amended the National Trails System Act with provisions to preserve established railroad rights-of-way for future reactivation of rail service and to encourage interim use with appropriate trails. The STB subsequently developed rules and procedures to “railbank” unused rail lines as an alternative to abandonment. The railbanking process begins when a railroad initiates a proceeding with the STB to abandon rail service in accordance with 49 CFR 1152.29. Following submittal of an abandonment application, a trail sponsor can file a request for the STB to issue a certificate or notice of interim trail use (“railbanking order”), accompanied by a statement of willingness to assume financial responsibility for the line. If the railroad agrees to negotiate, the STB issues the railbanking order and the abandonment proceeding is deferred up to 180 days while the railroad and trail sponsor negotiate a trail use agreement. If the railroad and trail sponsor successfully negotiate an agreement, the railbanking order automatically authorizes railbanking and interim trail use. The corridor is then added to the national “railbank” and designated for interim trail use. If an agreement is not reached within 180 days, then the railbanking order expires and the railroad is authorized to exercise its option to fully abandon the line by consummating the abandonment.

Upon notice of an abandonment proceeding, shippers or other railroad carriers have an opportunity to file an offer of financial assistance to subsidize continued rail service. If such an offer is accepted by the railroad, the rail corridor is not railbanked. Railbanking must be achieved through a voluntary agreement; the STB will not force a railroad to accept a trail use agreement. Railbanking is not available if a railroad has already consummated an abandonment of the line. Although railbanking is typically implemented through an agreement between a railroad and a trail sponsor, the railroad itself can also serve as the trail sponsor if it follows the appropriate procedures, as NCRA is proposing. Railbanking and interim trail use agreements are temporary and subject to being cut off at any time for reactivation of the line for continued rail service by the railroad. The STB’s role in railbanking is largely ministerial, which means that if the STB affirms that a line is within its jurisdiction and the railroad consents to railbanking, then the STB will not refuse to issue a railbanking order even if there are third-party objections.

The continuation of exclusive jurisdiction over a railbanked line by the STB results in federal preemption of state and local laws. Any portion of the railroad right-of-way that was acquired by easement is shielded from the assertion of reversionary property interests by adjacent landowners. Adjacent landowners who believe that railbanking results in a taking of private property without just compensation could file a taking claim against the United States pursuant to the Tucker Act. If successful, the claimants would receive compensation from the federal government for the fair market value of the land occupied by the railbanked rail corridor. A successful takings claim would not overturn the railbanking order and would not affect the trail sponsor’s ability to use the rail corridor for interim trail use.

Significance for Trail Development in Humboldt County

Over the last several years the City of Eureka and City of Arcata constructed trail projects within portions of the railroad corridor around Humboldt Bay pursuant to agreements with NCRA. These projects were designed to be compatible with future railroad use of the corridor, which added significant costs and resulted in additional environmental impacts in some locations due to the need to place fill material in wetlands in order to widen the rail prism.

Public Works has been developing the Humboldt Bay Trail South project between Eureka Slough (near Target) and Brainard Slough (north of the Bracut Industrial Park) since 2013. Construction funding is secured and the project is targeted for construction starting in 2022. This project would connect the City of Arcata's Humboldt Bay Trail North with the Eureka Waterfront Trail to provide approximately 14 miles of continuous, non-motorized trail from central Arcata to the southern end of Eureka. In December 2020, NCRA approved a lease agreement with Humboldt County for the Humboldt Bay Trail South project. This agreement received concurrence from the California Transportation Commission in April 2021.

The Humboldt Bay Trail South project is designed to be compatible with future restoration of historic use of the railroad corridor by incorporating flangeway fillers along the Eureka Slough bridge and widening the rail prism to maintain a minimum horizontal setback distance between the railroad tracks and trail. The proposed setback distance also provides a factor of safety to help protect the trail and trail users from floodwaters and wave overwash. This design will allow continued use of the railroad corridor by the Timber Heritage Association for speeder cars where the railroad is currently intact and suitable for this use (i.e., from Eureka Slough to Brainard).

While the Humboldt Bay Trail South project is compatible with future restoration of the corridor for historic railroad use, the project proposes to remove the rails and ties for one (1) mile between Brainard and Bracut in order to allow repair and maintenance of the shoreline armoring and raising the rail prism one (1) to two (2) feet. The shoreline armoring and rail prism between Brainard and Bracut have been severely damaged by erosion and this segment is currently impassable to any rail vehicles. Because the project would maintain setback distances, the rails and ties could be re-established in the future by another entity seeking to restore railroad use. This section is highly vulnerable to further flood damage due to the damaged shoreline armoring and the relatively low elevation of the rail prism. This section received floodwaters during the New Year's storm of 2005 that caused Highway 101 to close for several hours. Repairing the shoreline armoring and raising the railroad prism is urgently needed to help protect the railroad, Highway 101, and new trail from flooding hazards. Removal of the rails and ties is contingent upon NCRA receiving approval for railbanking.

The City of Eureka is currently developing a project to restore tidal wetlands along the Elk River estuary and extend the Eureka Waterfront Trail approximately one (1) mile southward. The City's project includes the proposed removal of rails and ties on the railroad bridge over the Elk River. This element of the project is contingent upon NCRA receiving approval for railbanking.

If NCRA receives approval from STB for railbanking, future trail projects could consider the

alternative of placing the trail directly on the rail prism where appropriate. Railbanking would be a major breakthrough for trails in Humboldt County by enabling future trail projects to be more streamlined and less expensive and have less environmental impacts. Trail projects could thus be more cost-effective and more competitive for funding.

Consistency with the Humboldt County General Plan and Zoning Regulations

In the memorandum contained in Attachment 4, the Building and Planning Department concluded that NCRA's railbanking proposal is consistent with the Humboldt County General Plan and zoning regulations.

Considerations for Developing the Great Redwood Trail within the Railroad Corridor

Planning to create NCRA's successor agency is still in the early stages. The structure of that agency and the level of base funding is currently unknown. Senate Bill SB-69 introduced by Senator McGuire would require NCRA's successor agency to develop a master plan for the Great Redwood Trail. Public Works assumes that NCRA's successor agency will consult with local agencies, tribes, adjacent landowners, and other stakeholders to plan and build segments of the Great Redwood Trail in a logical manner.

This section presents considerations for planning the Great Redwood Trail which are incorporated into the proposed support letter to NCRA:

In planning for the Great Redwood Trail within Humboldt County, it will be important to recognize the significant differences in context between the portion of the line from Scotia north to Samoa (the "coastal region") and the portion of the line south of Scotia along the Eel River to the county line near Alderpoint (the "interior region"). Public Works expects that the near-term priority will be to develop trail segments within the coastal region along Humboldt Bay, the Eel River Valley, and the Mad River. The ultimate goal would be to have a continuous network of trails linking McKinleyville, Blue Lake, Arcata, Samoa, Eureka, King Salmon, Fields Landing, Loleta, Fortuna, Rio Dell, and Scotia. Developing trails within the remote interior region will likely be a longer-term enterprise that will require significant planning and consultation with adjacent landowners. Challenges within the interior region include the existing physical damage to the railroad corridor, potential conflicts with adjacent land use, and the absence of existing access points and trailheads.

Trails should be planned and designed with consideration for community values and priorities and the context of the surrounding landscape and land use. A key planning principle in developing trails and access points is to ensure compatibility with adjacent land use. Security, trespass, fire, drainage, dogs, traffic, and parking are important issues that need to be addressed on a site-specific basis. In addition, the purpose and design of the trail should fit the context. For example, trails that connect cities and smaller urban areas will likely be planned to have both transportation and recreational purposes, resulting in paved paths designed in accordance with engineering standards to accommodate bicycles and mobility devices. Trails through natural and undeveloped areas can often be planned for recreational use only, resulting in smaller unpaved paths. Just because the railroad corridor is

railbanked does not mean that trails should be developed along every segment. Suitability for trail development will need to be determined on a segment-by-segment basis. In some locations an alternative alignment for a trail will be preferred over the railroad corridor.

Investment is needed to rehabilitate and maintain the railroad corridor where it is having an adverse impact on adjacent property and/or public trust resources. NCRA's railroad within Humboldt County has received little maintenance and repair since the 1990s. In many locations, deterioration of the rail prism and railroad infrastructure is increasing flood risks, contributing to drainage problems, creating potential safety and environmental hazards, discharging sediment to waterways, and creating potential nuisance conditions. The railroad along the Humboldt Bay shoreline has become critical coastal protection infrastructure; however, certain areas have suffered significant erosion and deterioration. The Great Redwood Trail represents a critical opportunity to leverage funding that can address these difficult issues while creating trails that provide substantial public benefit.

FINANCIAL IMPACT:

The recommended action is approval of a support letter which will have no financial impact to the Humboldt County General Fund.

STRATEGIC FRAMEWORK:

The recommended action supports the Board of Supervisors' Strategic Framework by providing for and maintaining infrastructure and creating opportunities for improved safety and health.

OTHER AGENCY INVOLVEMENT:

North Coast Railroad Authority

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board of Supervisors could choose not to submit a support letter for NCRA's railbanking application. This alternative would likely not change the outcome of STB's decision on NCRA's application but would result in NCRA not receiving Humboldt County's input on considerations for developing the railroad corridor for interim trail use as part of the Great Redwood Trail. Because this alternative would result in Humboldt County not providing input on future development of the Great Redwood Trail, the alternative is not recommended.

ATTACHMENTS:

1. Support Letter
2. Map of North Coast Railroad Authority Line within Humboldt County of Humboldt
3. Combined Environmental Report and History Report
4. Memorandum Evaluating Consistency with General Plan and Zoning Regulations

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: N/A

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