

**AGENDA**  
**REGULAR MEETING OF THE BOARD OF COMMISSIONERS**  
**HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT**

**DATE:** December 10, 2020

**TIME:** Closed Session – 5:00 P.M.  
Regular Session – 6:00 P.M.

**PLACE:** Join Zoom Meeting  
<https://us02web.zoom.us/j/3432860852>

Meeting ID: 343 286 0852  
One tap mobile  
(669) 900-9128, 343 286 0852# US

**1. Call to Order Closed Session at 5:00 P.M.**

**2. Public Comment**

*Note: This portion of the Agenda allows the public to speak to the Board on the closed session items. Each speaker is limited to speak for a period of three (3) minutes regarding each item on the Closed Session Agenda. The three (3) minute time limit may not be transferred to other speakers. The three (3) minute time limit for each speaker may be extended by the President of the Board of Commissioners or the Presiding Member of the Board of Commissioners.*

**3. Swearing in Elected Commissioners for District 1, District 2 and District 5 pursuant to California Elections Code Section 10265**

**4. Move to Closed Session**

- a) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Terms of potential lease and sublease of District's lease interest by District under lease between the District and Mario's Marina LLC dated April 1, 2016 for the real property commonly known as Mario's Marina in Shelter Cove (APN: 108-171-023-000), Humboldt County, California pursuant to California Government Code § 54956.8. District negotiators: Larry Oetker, Executive Director and Ryan Plotz, District Counsel. Negotiating party: Mario's Marina and Shelter Cove Fisherman's Preservation, Inc. Under negotiation: price and payment terms.
- b) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Terms of potential purchase of real property with Assessor's Parcel Number 401-031-061 on the Samoa Peninsula, Humboldt County, California pursuant to California Government Code § 54956.8. District negotiators: Larry Oetker, Executive Director. Negotiating party: Pete Jackson, Green Diamond Resource Company. Under negotiation: price and payment terms.

**Agenda for December 10, 2020 Regular Board Meeting**

- c) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Terms of potential purchase of real property with Assessor's Parcel Number 401-112-021 on the Samoa Peninsula, Humboldt County, California pursuant to California Government Code § 54956.8. District negotiators: Larry Oetker, Executive Director. Negotiating party: Green Cloud Inc. Under negotiation: price and payment terms.

**5. Call to Order Regular Session at 6:00 P.M. and Roll Call**

**6. Pledge of Allegiance**

**7. Report on Closed Session**

**8. Public Comment**

*Note: This portion of the Agenda allows the public to speak to the Board on the **various issues NOT itemized on this Agenda**. A member of the public may also request that a matter appearing on the Consent Calendar be pulled and discussed separately. Pursuant to the Brown Act, the Board may not take action on any item that does not appear on the Agenda. Each speaker is limited to speak for a period of three (3) minutes regarding each item on the Agenda. Each speaker is limited to speak for a period of three (3) minutes during the PUBLIC COMMENT portion of the Agenda regarding items of special interest to the public NOT appearing on the Agenda that are within the subject matter jurisdiction of the Board of Commissioners. The three (3) minute time limit may not be transferred to other speakers. The three (3) minute time limit for each speaker may be extended by the President of the Board of Commissioners or the Presiding Member of the Board of Commissioners at the regular meeting of the District.*

**9. Consent Calendar**

- a) Adopt Minutes for November 12, 2020 Regular Board Meeting
- b) Adopt Minutes for November 19, 2020 Special Board Meeting
- c) Receive District Financial Reports for October 2020

**10. Communications, Reports and Correspondence Received**

- a) Executive Director's Report
- b) Staff Reports
- c) District Counsel and District Treasurer Reports
- d) Commissioner and Committee Reports
- e) Correspondence Received

**11. Unfinished Business**

**a) Introduce Amendment NO. 2 Ordinance NO. 7 An Ordinance Implementing Certain Portions of the Humboldt Bay Master Plan**

*Recommendation:* Staff recommends that the Board: Introduce Amendment NO. 2 Ordinance NO. 7 An Ordinance Implementing Certain Portions of the Humboldt Bay Master Plan and consent to read by title only.

*Summary:* There are existing billboards that occur within tidal and submerged lands under the regulatory jurisdiction of the District. The Humboldt Bay Management Plan does not adequately define District policy regarding billboards. The Board directed Staff to draft amendments to the Humboldt Bay Master Plan to clarify the District's existing regulations prohibiting billboards from the tidal and submerged lands.

**b) Consider approving the First Amendment to Limited Obligation Note and Loan Documents with Coast Seafoods**

*Recommendation:* Staff recommends that the Board: Authorize the Executive Director to execute the First Amendment to Limited Obligation Note and Loan Documents with Coast Seafoods.

*Summary:* In 2014 the Harbor District borrowed up to \$1.25 million from Coast Seafood to remove hazardous material from the former Pulp Mill which is now owned by the Harbor District. The \$1.25 million was used to leverage over \$10 million of additional funds from the USEPA to clean up the property. The Harbor District has been making payments on this loan, and the proposed amendment outlines the terms whereas the Harbor District will pay off the loan in full by March 2023.

**12. New Business**

**a) Extension of Permit No. 14-05 for Invasive Spartina Eradication and Native Salt Marsh Restoration**

*Recommendation:* Staff recommends that the Board: Approve an extension of Permit 14-05 from December 18, 2020 to December 17, 2021 to allow for continuance of the Humboldt Bay spartina eradication program and authorize the Executive Director to review and approve future permit extensions.

*Summary:* In 2014, the District issued Permit 14-05 to itself for the removal of the non-native plant species *Spartina densiflora*. The permit requires an extension in order to be active from December 18, 2020 through December 17, 2021.

**b) Award of Contract to Tenera Environmental Consulting to Develop an Impact Assessment Model for Bay Water Intakes Proposed by the District**

*Recommendation:* Staff recommends that the Board: Award a contract to Tenera Environmental Consulting to develop an impact assessment model for bay water intakes proposed by the District for a cost not to exceed \$34,000.

*Summary:* As part of permitting for water intakes that will be used by District tenants on the Samoa Peninsula, there is a need for a model of potential fish larvae impacts. The Commission will consider awarding a contract to Tenera Environmental Consulting to develop the model.

**c) Receive a Report of the Historic Shipping Volumes from Humboldt Bay**

*Recommendation:* Staff recommends that the Board: Receive a report from Staff.

*Summary:* Staff has collected a log of all the shipping from Humboldt Bay from 2000 to present. Staff will provide a summary report of the historic ship traffic and projections for future years. The ship tonnage is utilized to calculate the Harbor Usage Fees which are utilized to help pay off the debt incurred by the Harbor deepening project.

**d) Review of the Report to the Legislature 2020 Regarding the “Assessment of the North Coast Railroad Authority and Viability of a Great Redwood Trail”**

*Recommendation:* Staff recommends that the Board: Review the assessment and provide direction to staff as may be appropriate.

*Summary:* The North Coast Railroad Authority Closure and Transition to Trails Act was approved in September 2018. The Act directs the California State Transportation Agency, in consultation with the Natural Resources Agency, to “conduct an assessment of the North Coast Railroad Authority to provide information necessary to determine the most appropriate way to dissolve North Coast Railroad Authority and dispense with its assets and liabilities,” as well as “a preliminary assessment of the viability of constructing a trail on the entirety of, or a portion of, the property, rights-of-way, or easements owned by North Coast Railroad Authority, and recommendations relating to the possible construction of a trail.”

**e) Consider Adopting Resolution 2020-17, A Resolution Authorizing Adoption of the Humboldt County Operational Area Hazard Mitigation Plan 2020 Update**

*Recommendation:* Staff recommends that the Board: Approve Resolution 2020-17 to adopt the Humboldt County Operational Area Hazard Mitigation Plan 2020 Update.

*Summary:* The Harbor District partnered with the County of Humboldt, Cities, Towns, Tribes and other Special Districts to pool resources and create consistent mitigation strategies within the Humboldt County Operational Area. Adoption of the Humboldt County Operational Area Hazard Mitigation Plan 2020 Update affirms the Harbor District’s commitment to this effort and makes the Harbor District eligible for future hazard mitigation funding opportunities.

**f) Review of Subcommittees**

*Recommendation:* Staff recommends that the Board: Review the list of current subcommittees for accuracy and propose changes to current subcommittee members.

## ***Agenda for December 10, 2020 Regular Board Meeting***

*Summary:* Subcommittees are formed regularly throughout the year. Staff would like to review the active subcommittees annually to ensure they are still necessary and meeting, as well as giving members the opportunity to reevaluate their membership.

### **13. Future Agenda Items**

- a)** Suction Dredging (Long Fin Smelt Mitigation)
- b)** Bar Pilot Recruitment
- c)** Personnel Policy Revisions
- d)** Brown Act Training

### **14. Adjournment**



**COUNTY OF HUMBOLDT**  
**Office of Elections & Voter Registration**

2426 6<sup>th</sup> Street  
 Eureka, CA 95501-0788  
 707-445-7481  
 Fax 707-445-7204

**TO:** Mindy Hiley, Director of Administrative Services  
 Humboldt Bay Harbor, Recreation & Conservation District  
 PO Box 1030  
 Eureka, CA 95502

**FROM:** Lucinda Jackson, Administrative Analyst 

**DATE:** November 30, 2020

**SUBJECT:** Presidential General Election on November 3, 2020  
**Appointments to District Boards**

Humboldt Bay Harbor, Recreation & Conservation District has 1 four-year Division 1 term, 1 four-year Division 2 term, and 1 four-year Division 5 term to expire on December 4, 2020. The district's Division 1, Division 2, and Division 5 four-year terms did not go to election due to insufficient number of qualified candidates.

On November 17, 2020, the Humboldt County Board of Supervisors considered and approved appointments to special district boards either (1) in lieu of an election, or (2) pursuant to district recommendation.

Elections Code, Section 10515, provides direction for special district appointments when either the number equals to or is less than the number of available seats. When the number of qualified candidates equals the number of available seats and no petition requesting an election has been filed, the Registrar of Voters is directed to request the Humboldt County Board of Supervisors to appoint those qualified candidates in lieu of an election.

**APPOINTMENTS & ELECTION RESULTS**

Based on appointment and November 3<sup>rd</sup> election results, the following Humboldt Bay Harbor, Recreation & Conservation District board seats have been filled:

<b>Division</b>	<b>Term</b>	<b>Board Member</b>	<b>Type</b>
1	4	Lawrence Orien Doss	In Lieu
2	4	Phillip Gregory Dale	In Lieu
5	4	Patrick T. Higgins	In Lieu

## **CERTIFICATES & ROSTER**

Board members will assume office on December 4, 2020. Attached are Certificates of Appointment in Lieu of Election for new members to your special district board, and a Roster of Public Officials. Please complete these documents and return signed originals to the Office of Elections by **December 31, 2020**.

## **FORM 700 – STATEMENT OF ECONOMIC INTERESTS**

All board members assuming office are required to submit an original, signed Statement of Economic Interests (Form 700) within 30 days of assuming office. Additionally, all board members leaving office are required to submit an original, signed Form 700 within 30 days of leaving office. Please coordinate with board members assuming office and board members leaving office to complete and return a Form 700 to the Office of Elections. Both the Form 700 and instructions are available online at <https://www.fppc.ca.gov>. (Note: Board members who currently hold an office and have either been reappointed or reelected to that office where there is no break in service do not need to file a Form 700 at this time.)

Please feel free to contact our office anytime with questions.

## **ATTACHMENTS**

- Certificates of Appointment in Lieu of Election
- Statement of Economic Interests (Form 700)
- Roster of Public Officials

**GOVERNING BOARD MEMBER – SPECIAL DISTRICT**

**CERTIFICATE OF APPOINTMENT IN LIEU OF ELECTION**

Elections Code, Section 10515

I, KELLY SANDERS, Humboldt County Registrar of Voters, do hereby certify that **LAWRENCE ORIEN DOSS** was nominated for the position of Director of the **HUMBOLDT BAY HARBOR, RECREATION & CONSERVATION DISTRICT, DIVISION 1** and that the number of candidates was equal to or did not exceed the number of offices to be filled at the Presidential General Election held on November 3, 2020. Therefore pursuant to Section 10515 of the California Elections Code the appointment was made by the Humboldt County Board of Supervisors. The term of this office is 4 years ending on the first Friday of December, 2024.

Dated: November 30, 2020

Kelly Sanders  
County Registrar of Voters

By  \_\_\_\_\_  
Deputy Clerk

**OATH OF OFFICE**

Govt Code Section 1360-1363, inclusive,  
3105 Section 3, Article XX, State Constitution

I, **LAWRENCE ORIEN DOSS**, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

\_\_\_\_\_  
Signature Date

Residential Address:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of person administering oath

**Return signed original form to the Humboldt County Office of Elections:**

**GOVERNING BOARD MEMBER – SPECIAL DISTRICT**  
**CERTIFICATE OF APPOINTMENT IN LIEU OF ELECTION**

Elections Code, Section 10515

I, KELLY SANDERS, Humboldt County Registrar of Voters, do hereby certify that **PHILLIP GREGORY DALE** was nominated for the position of Director of the **HUMBOLDT BAY HARBOR, RECREATION & CONSERVATION DISTRICT, DIVISION 2** and that the number of candidates was equal to or did not exceed the number of offices to be filled at the Presidential General Election held on November 3, 2020. Therefore pursuant to Section 10515 of the California Elections Code the appointment was made by the Humboldt County Board of Supervisors. The term of this office is 4 years ending on the first Friday of December, 2024.

Dated: November 30, 2020  
Kelly Sanders  
County Registrar of Voters

By  \_\_\_\_\_  
Deputy Clerk

**OATH OF OFFICE**

Govt Code Section 1360-1363, inclusive,  
3105 Section 3, Article XX, State Constitution

I, **PHILLIP GREGORY DALE**, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

\_\_\_\_\_  
Signature Date

Residential Address:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of person administering oath

**GOVERNING BOARD MEMBER – SPECIAL DISTRICT**

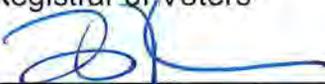
**CERTIFICATE OF APPOINTMENT IN LIEU OF ELECTION**

Elections Code, Section 10515

I, KELLY SANDERS, Humboldt County Registrar of Voters, do hereby certify that **PATRICK T. HIGGINS** was nominated for the position of Director of the **HUMBOLDT BAY HARBOR, RECREATION & CONSERVATION DISTRICT, DIVISION 5** and that the number of candidates was equal to or did not exceed the number of offices to be filled at the Presidential General Election held on November 3, 2020. Therefore pursuant to Section 10515 of the California Elections Code the appointment was made by the Humboldt County Board of Supervisors. The term of this office is 4 years ending on the first Friday of December, 2024.

Dated: November 30, 2020

Kelly Sanders  
County Registrar of Voters

By  \_\_\_\_\_  
Deputy Clerk

**OATH OF OFFICE**

Govt Code Section 1360-1363, inclusive,  
3105 Section 3, Article XX, State Constitution

I, **PATRICK T. HIGGINS**, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

\_\_\_\_\_  
Signature Date

Residential Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of person administering oath

**Return signed original form to the Humboldt County Office of Elections:**

**DRAFT MINUTES  
REGULAR MEETING OF THE BOARD OF COMMISSIONERS  
HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT**

**November 12, 2020**

The Humboldt Bay Harbor, Recreation and Conservation District met in regular session on the above date, Closed Session met at 5:00 P.M. Regular Session met at 6:00 P.M via video conference with a teleconference option.

**CLOSED SESSION – 5:00 PM**

**PUBLIC COMMENT:** The following individuals addressed the Commission regarding subject matters on the closed session meeting agenda: No one.

- a) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Terms of potential lease and sublease of District’s lease interest by District under lease between the District and Mario’s Marina LLC dated April 1, 2016 for the real property commonly known as Mario’s Marina in Shelter Cove (APN: 108-171-023-000), Humboldt County, California pursuant to California Government Code § 54956.8. District negotiators: Larry Oetker, Executive Director and Ryan Plotz, District Counsel. Negotiating party: Mario’s Marina and Shelter Cove Fisherman’s Preservation, Inc. Under negotiation: price and payment terms.
- b) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Terms of potential lease of real property on the Samoa Peninsula, Humboldt County, with Assessor’s Parcel Numbers, 401-112-021 and 401-111-006 California pursuant to California Government Code § 54956.8. District negotiators: Larry Oetker, Executive Director and Ryan Plotz, District Counsel. Negotiating party: Chris Brungardt, RTI Infrastructure, INC. Under negotiation: price and payment terms.
- c) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Terms of potential purchase of real property with Assessor’s Parcel Number 401-031-061 on the Samoa Peninsula, Humboldt County, California pursuant to California Government Code § 54956.8. District negotiators: Larry Oetker, Executive Director. Negotiating party: Pete Jackson, Green Diamond Resource Company. Under negotiation: price and payment terms.

**REGULAR SESSION – 6:01 P.M.**

**ROLL CALL:**

PRESENT:       DOSS  
                  MARKS  
                  HIGGINS  
                  KULLMANN

ABSENT:       DALE

QUORUM:      YES

**PLEDGE OF ALLEGIANCE**

**REPORT ON CLOSED SESSION:** No reportable action.

**PUBLIC COMMENT:** The following individuals addressed the Commission regarding subject matters not on this meeting's agenda: No comments; the Executive Director asked that item d) of the Consent Calendar be pulled per a phone call from Rich Tobin.

Chair Kullmann proposed moving agenda item 11b. to directly after Communications and Reports to accommodate the members of the public in attendance for that item.

- I. COMMISSIONER MARKS MOVED TO MOVE AGENDA ITEM 11B TO BEFORE UNFINISHED BUSINESS AGENDA ITEMS.
- II. COMMISSIONER HIGGINS SECONDED.
- III. ROLL CALL VOTE WAS CALLED, MOTION CARRIED.  
Ayes: DOSS, HIGGINS, KULLMANN, MARKS  
Noes: NONE  
Absent: DALE  
Abstain: NONE

**CONSENT CALENDAR**

- a) Adopt Minutes for October 8, 2020 Regular Board Meeting
  - b) Adopt Minutes for October 28, 2020 Special Board Meeting
  - c) Receive District Financial Reports for September 2020
  - d) Adopt Amended Minutes to Correct Administrative Error
  - e) Accept Donation in the Amount of \$23,000 from Sequoia Investments XI, LLC, Samoa Dunes II, LLC and Samoa Dunes I, LLC towards the acquisition of the Dog Ranch Properties.
- I. COMMISSIONER MARKS MOVED TO APPROVE CONSENT CALENDAR ITEMS A-C AND E. COMMISSIONER DOSS SECONDED.
  - II. Chair Kullmann opened the item to public comment. No one commented.
  - III. Chair Kullmann moved the discussion back to the Commission.  
ROLL CALL VOTE WAS CALLED, MOTION CARRIED.  
Ayes: DOSS, HIGGINS, KULLMANN, MARKS  
Noes: NONE  
Absent: DALE  
Abstain: NONE
  - I. Rich Tobin presented Consent Calendar Item d.
  - II. The Commission discussed the item.
  - III. Chair Kullmann opened the item to public comment. Rich Tobin commented.
  - IV. Chair Kullmann moved the discussion back to the Commission.  
COMMISSIONER HIGGINS MOVED TO APPROVE CONSENT CALENDAR ITEM D.  
COMMISSIONER MARKS SECONDED.  
ROLL CALL VOTE WAS CALLED, MOTION CARRIED.  
Ayes: DOSS, HIGGINS, KULLMANN, MARKS

Noes: NONE  
Absent: DALE  
Abstain: NONE

**COMMUNICATIONS, REPORTS AND CORRESPONDENCE RECEIVED**

- a) Executive Director’s Report
  - I. Executive Director presented Executive Director’s Report
- b) Staff Reports
  - I. Staff presented on recent District Activities
- c) District Counsel and District Treasurer Reports
  - I. District Counsel reported.
- d) Commissioner and Committee Reports
  - I. Commissioners reported on recent activities and subcommittees
- e) Correspondence Received
  - I. None

**NEW BUSINESS**

**b) Consideration of Term Sheet related to Harbor District Management of the Tuluwat Island Wetland Mitigation Project**

- I. District staff presented the item.
- II. The Commission discussed the item.
- III. Chair Kullmann opened the item to public comment. Ted Hernandez, Adam Canter, Tim Nelson and Rob Well commented.
- IV. Chair Kullmann moved the discussion back to the Commission.  
COMMISSIONER MARKS MOVED TO APPROVE EXECUTION OF THE TULUWAT ISLAND WETLAND MITIGATION PROJECT TERM SHEET.  
COMMISSIONER HIGGINS SECONDED.  
ROLL CALL VOTE WAS CALLED, MOTION CARRIED.  
Ayes: DOSS, HIGGINS, KULLMANN, MARKS  
Noes: NONE  
Absent: DALE  
Abstain: NONE

**UNFINISHED BUSINESS**

**a) Adopt Resolution 2020-15 Establishing User Fees for the Discharge of Effluent Out the 1 ½ Mile RMT II Ocean Outfall Pipe**

- I. Executive Director presented the item.
- II. The Commission discussed the item.
- III. Chair Kullmann opened the item to public comment. No one commented.
- IV. Chair Kullmann moved the discussion back to the Commission.

COMMISSIONER HIGGINS MOVED TO ADOPT RESOLUTION 2020-15: ESTABLISHING USER FEES FOR THE DISCHARGE OF EFFLUENT OUT THE 1 ½ MILE RMT II OCEAN OUTFALL PIPE.

COMMISSIONER MARKS SECONDED.

ROLL CALL VOTE WAS CALLED, MOTION CARRIED.

Ayes: DOSS, HIGGINS, KULLMANN, MARKS

Noes: NONE

Absent: DALE

Abstain: NONE

**b) Consideration of Cooperative Management and Law Enforcement Memorandum of Understanding for the Samoa Dunes and Wetlands (aka Dog Ranch)**

- I. Executive Director presented the item.
- II. The Commission discussed the item.
- III. Chair Kullmann opened the item to public comment. No one commented.
- IV. Chair Kullmann moved the discussion back to the Commission.

COMMISSIONER HIGGINS MOVED TO APPROVE EXECUTION OF THE COOPERATIVE MANAGEMENT AND LAW ENFORCEMENT MEMORANDUM OF UNDERSTANDING FOR THE SAMOA DUNES AND WETLANDS.

COMMISSIONER MARKS SECONDED.

ROLL CALL VOTE WAS CALLED, MOTION CARRIED.

Ayes: DOSS, HIGGINS, KULLMANN, MARKS

Noes: NONE

Absent: DALE

Abstain: NONE

**NEW BUSINESS**

**a) Discussion Regarding Lease between Harbor District and Mario's Marina and Sublease between Harbor District and Shelter Cove Fishing Preservation Incorporated, Shelter Cove (APN 108-171-023-000)**

- I. Executive Director presented the item.
- II. The Commission discussed the item.
- III. Chair Kullmann opened the item to public comment. No one commented.
- IV. Chair Kullmann moved the discussion back to the Commission.
- V. Information item only, no action was taken.

**c) Consideration of Letter Supporting US Coast Guard Operations**

- I. Executive Director presented the item.
- II. The Commission discussed the item.
- III. Chair Kullmann opened the item to public comment. No one commented.
- IV. Chair Kullmann moved the discussion back to the Commission.

**Draft Minutes for November 12, 2020 Regular Board Meeting**

COMMISSIONER DOSS MOVED TO APPROVE LETTER AFFIRMING THE DISTRICT'S SUPPORT FOR THE US COAST GUARD'S HUMBOLDT BAY PRESENCE.

COMMISSIONER HIGGINS SECONDED.

ROLL CALL VOTE WAS CALLED, MOTION CARRIED.

Ayes: DOSS, HIGGINS, KULLMANN, MARKS

Noes: NONE

Absent: DALE

Abstain: NONE

**FUTURE AGENDA ITEMS**

- a) Follow the sediment trail of the dredge material with a report on where it ends up.
- b) Report from the District Treasurer

**ADJOURNMENT – 7:18 P.M.**

APPROVED BY:

RECORDED BY:

\_\_\_\_\_  
Patrick Higgins  
Secretary of the Board of Commissioners

\_\_\_\_\_  
Mindy Hiley  
Director of Administrative Services

**DRAFT MINUTES  
SPECIAL MEETING OF THE BOARD OF COMMISSIONERS  
HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT**

**November 19, 2020**

The Humboldt Bay Harbor, Recreation and Conservation District met in special session on the above date, Closed Session met at 5:00 P.M. Special Session met at 6:00 P.M via video conference with a teleconference option.

**CLOSED SESSION – 5:00 PM**

**PUBLIC COMMENT:** The following individuals addressed the Commission regarding subject matters on the closed session meeting agenda:

- a) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Terms of potential lease of real property on the Samoa Peninsula, Humboldt County, with Assessor’s Parcel Numbers, 401-112-021 and 401-111-006 California pursuant to California Government Code § 54956.8. District negotiators: Larry Oetker, Executive Director and Ryan Plotz, District Counsel. Negotiating party: Chris Brungardt, RTI Infrastructure, INC. Under negotiation: price and payment terms.
- b) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Terms of potential purchase of real property with Assessor’s Parcel Number 401-111-006 on the Samoa Peninsula, Humboldt County, California pursuant to California Government Code § 54956.8. District negotiators: Larry Oetker, Executive Director. Negotiating party: Simpson Paper Company. Under negotiation: price and payment terms.
- c) CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Terms of potential purchase of real property with Assessor’s Parcel Number 401-112-021 on the Samoa Peninsula, Humboldt County, California pursuant to California Government Code § 54956.8. District negotiators: Larry Oetker, Executive Director. Negotiating party: Green Cloud Inc. Under negotiation: price and payment terms.

**SPECIAL SESSION – 6:00 P.M.**

**ROLL CALL:**

PRESENT:       DALE  
                  DOSS  
                  MARKS  
                  HIGGINS  
                  KULLMANN

ABSENT:        NONE

QUORUM:       YES

**REPORT ON EXECUTIVE CLOSED SESSION:** The Board of Commissions met on all above items. Items A-B, the Commission did not take any action and are delaying all action. Item C no reportable action.

**PUBLIC COMMENT:** The following individuals addressed the Commission regarding subject matters not on this meeting’s agenda: no one commented.

**BUSINESS**

**a) Consider Approving a Lease Agreement with RTI Infrastructure Inc for a Portion of APN 401-112-021-000 and 401-111-006**

- I. Executive Director presented the item.
- II. The Commission discussed the item.
- III. Chair Kullmann opened the item to public comment. Sean Taketa McLaughlin, Executive Director of Access Humboldt, Scott Frazier, Virginia Bass and Dave McEntee commented.
- IV. Chair Kullmann moved the discussion back to the Commission.  
COMMISSIONER DOSS MOVED TO AUTHORIZE THE EXECUTIVE DIRECTOR TO EXECUTE ALL DOCUMENTS ASSOCIATED WITH THE LEASE AGREEMENT WITH RTI INFRASTRUCTURE INC.  
COMMISSIONER HIGGINS SECONDED.  
ROLL CALL VOTE WAS CALLED, MOTION CARRIED WITHOUT DISSENT.  
Ayes: DALE, DOSS, HIGGINS, KULLMANN, MARKS  
Noes: NONE  
Absent: NONE  
Abstain: NONE

**b) Consider Adopting Resolution 2020-16 A Resolution to Authorize the Purchase of and Acceptance of the Grant Deed for the Purchase of APN 401-111-006 (Beach Property) on the Samoa Peninsula**

- I. Executive Director presented the item.
- II. The Commission discussed the item.
- III. Chair Kullmann opened the item to public comment. Sean Taketa McLaughlin and Scott Frazier commented.
- IV. Chair Kullmann moved the discussion back to the Commission.  
COMMISSIONER DOSS MOVED TO ADOPT RESOLUTION 2020-16, A RESOLUTION TO AUTHORIZE THE PURCHASE OF AND ACCEPTANCE OF THE GRANT DEEF FOR THE PURCHASE OF APN 401-111-006 ON THE SAMOA PENINSULA.  
COMMISSIONER DALE SECONDED.  
ROLL CALL VOTE WAS CALLED, MOTION CARRIED WITHOUT DISSENT.  
Ayes: DALE, DOSS, HIGGINS, KULLMANN, MARKS  
Noes: NONE  
Absent: NONE  
Abstain: NONE

**FUTURE AGENDA ITEMS**

- a) Long Fin Smelt, CESA take permit
- b) Include on the agenda the number of ships coming into Humboldt Bay and total tonnage.
- c) Billboard Ordinance No. 7
- d) Treasurer's Report

**ADJOURNMENT – 6:52 P.M.**

**Draft Minutes for November 19, 2020 Special Board Meeting**

APPROVED BY:

RECORDED BY:

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Patrick Higgins  
Secretary of the Board of Commissioners

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Mindy Hiley  
Director of Administrative Services

## HUMBOLDT BAY HARBOR, RECREATION, AND CONSERVATION DISTRICT

Monthly Cash Flow Analysis

For The Months Ended October 31, 2020 and September 30, 2020

	<u>10/31/20</u>	<u>9/30/20</u>
<b><u>Account Balances</u></b>		
Checking	\$ 12,640	\$ 97,763
Savings	4,159	15,411
Tariff	496,805	428,056
County Treasury	113,914	179,178
Cash on hand	1,805	1,300
<b>Total Cash</b>	<b><u>629,323</u></b>	<b><u>721,708</u></b>
Add: Accounts Receivable (less doubtful accounts)	483,402	433,173
Less: Accounts Payable	(339,889)	(386,417)
Available Cash and Receivables	<u>\$ 772,836</u>	<u>\$ 768,464</u>
<b><u>Change in Cash Balance</u></b>		
Balance, Beginning of Month	\$ 721,708	\$ 665,888
Monthly Deposits	317,535	266,735
Monthly Payments	(409,920)	(210,915)
Balance, End of Month	<u>\$ 629,323</u>	<u>\$ 721,708</u>
<b><u>Monthly Expenses Summary</u></b>		
Significant/Unusual Expenses:		
Third payroll in month	\$ 22,535	
RMT2 Brownfield expenses	138,349	
Sub-total, Significance/Unusual Expenses	<u>160,884</u>	<u>-</u>
General operating expenses and other misc. expense	\$ 249,036	\$ 210,915
Total Cash Payments	<u>\$ 409,920</u>	<u>\$ 210,915</u>
<b><u>Monthly Deposits Summary</u></b>		
Significant/Unusual Revenues:		
Property taxes and interest income	\$ 4,737	\$ 40,000
Interest Payment on NMTC note receivable	40,187	
Brownfield grant income	72,545	
Nordic Aquafarms tenant relocation grant	43,750	
Sub-total, Significant/Unusual Revenues	<u>161,219</u>	<u>40,000</u>
General revenues	\$ 156,316	\$ 226,735
Total Cash Receipts	<u>\$ 317,535</u>	<u>\$ 266,735</u>

11:01 AM

Humboldt Bay Harbor, Recreation & Conservation District

Balance Sheet

As of October 31, 2020

12/04/20

Accrual Basis

	Oct 31, 20
<b>ASSETS</b>	
<b>Current Assets</b>	
<b>Checking/Savings</b>	
10901 · RESTRICTED - COUNTY TREASURY	628,043.00
10600.1 · Cash in bank, Tariff BBVA	496,804.81
10700.1 · Cash in bank, Water BBVA	4,159.04
10200.1 · Cash in BBVA, Checking	3,877.57
10000 · PETTY CASH ON HAND	150.00
10100 · CHANGE FUND ON HAND	400.00
10111 · COIN MACHINE FUND	730.00
10200 · CASH IN BANK, CHECKING	9,030.76
10400 · CASH IN COUNTY - FUND 2720	78,670.87
10500 · CASH IN COUNTY - FUND 3872	35,243.42
10902 · RESTRICTED CASH OFFSET	-628,043.00
<b>Total Checking/Savings</b>	629,066.47
<b>Accounts Receivable</b>	
12000 · ACCTS RECEIVABLE	951,386.94
<b>Total Accounts Receivable</b>	951,386.94
<b>Other Current Assets</b>	
12600 · Note Receivable - NMTC	5,849,375.00
12100 · ALLOW FOR BAD DEBTS	-259,988.12
12200 · TAXES RECEIVBLE	324,884.01
12300 · INTEREST RECEIVBLE	16,132.52
12700 · PREPAID EXPENSES	90,895.62
12800 · LEASE RECEIVABLE	769.63
1499 · Undeposited Funds	525.00
<b>Total Other Current Assets</b>	6,022,593.66
<b>Total Current Assets</b>	7,603,047.07
<b>Fixed Assets</b>	
14900 · DOG RANCH PROPERTY	7,507.70
14800 · SHIPWRECK PROPERTY	50,088.05
<b>CAPITAL ASSETS, NET</b>	
16900 · Dredge	1,215,423.27
16800 · REDWOOD TERMINAL 2	2,613,169.43
16700 · AQUAPONICS PILOT FACILITY	96,036.61
16600 · TABLE BLUFF LIGHTHOUSE	361.44
16500 · HOMELAND SECURITY EQUIPMENT	2,254,007.60
16400 · REDWOOD DOCK PROPERTY	3,010,194.30
16100 · MARINA DREDGE,CONSTR IN PROGRES	809,025.14
16000 · KING SALMON	15,143.99
15900 · DREDGING COSTS	215,226.78
15800 · SHELTER COVE	2,386,247.10
15700 · FL BOAT BLDG & REPAIR FACILITY	4,302,259.53
15600 · MARINA	10,529,004.29
15500 · MARINA, RESTAURANT COMPLEX	34,100.00
15200 · OPERATING EQUIPMENT	314,098.74
15100 · OFFICE EQUIPMENT	193,303.88
15000 · AUTOMOTIVE EQUIPMENT	95,639.08
17000 · ACCUMULATED DEPRECIATION	-16,998,866.17
<b>Total CAPITAL ASSETS, NET</b>	11,084,375.01
<b>Total Fixed Assets</b>	11,141,970.76
<b>Other Assets</b>	
19000 · Deferred Outflows of PERS	270,798.00
<b>Total Other Assets</b>	270,798.00
<b>TOTAL ASSETS</b>	<b>19,015,815.83</b>
<b>LIABILITIES &amp; EQUITY</b>	
<b>Liabilities</b>	
<b>Current Liabilities</b>	
<b>Accounts Payable</b>	
20000 · ACCOUNTS PAYABLE	340,294.29
<b>Total Accounts Payable</b>	340,294.29
<b>Other Current Liabilities</b>	
24002 · Groundlease Current Def Income	60,092.31
24000 · Ground Lease Deferred Income	3,906,000.00
Payroll tax & Withholding Liab	

## Humboldt Bay Harbor, Recreation &amp; Conservation District

## Balance Sheet

12/04/20

As of October 31, 2020

Accrual Basis

	Oct 31, 20
21600 · PERS CARE/MEDICAL INSURANCE	1,237.42
21300 · STATE UNEMPLOYMENT TAX	34.53
2111 · *DIRECT DEPOSIT LIABILITIES	-1,072.77
<b>Total Payroll tax &amp; Withholding Liab</b>	<b>199.18</b>
20100 · LEASE PAYABLE TO HBDA	-32,754.00
20200 · NOTES PAYABLE	1,300,213.13
20400 · ACCRUED WAGES PAYABLE	21,749.14
20500 · ACCRUED INTEREST	54,080.00
20600 · ACCRUED VACATION PAYABLE	38,030.24
20800 · DEPOSITS ON HAND	
20808 · WAIT LIST DEPOSIT	2,700.00
20801 · KEY DEPOSITS ON HAND	14,460.00
20802 · PLUG DEPOSITS ON HAND	1,020.00
20803 · SLIP DEPOSITS ON HAND	49,500.18
20804 · STORAGE DEPOSITS	3,657.65
20806 · LEASE SECURITY DEPOSIT	104,183.42
20807 · STORAGE DEPOSIT - REDWOOD DOCK	2,750.26
<b>Total 20800 · DEPOSITS ON HAND</b>	<b>178,271.51</b>
22000 · DEFERRED LEASE INCOME	23,124.99
28000 · DEFERRED INCOME	131,588.24
28500 · OTHER DEFERRED CREDITS	723,523.92
<b>Total Other Current Liabilities</b>	<b>6,404,118.66</b>
<b>Total Current Liabilities</b>	<b>6,744,412.95</b>
<b>Long Term Liabilities</b>	
24003 · Groundlease Current Offset	-60,092.31
24001 · Gound Lease Amortization	-279,168.44
27200 · Deferred Inflows of PERS	137,634.00
27000 · Net Pension Liability	1,033,203.00
25700 · BOND PAYABLE 2014 REFINANCING	2,295,450.54
25800 · BBVA Loan Payable	1,196,035.63
25600 · Note Payable-Coast Seafoods Co.	994,051.60
25500 · OPEB Liability	342,799.00
25200 · ENVIRONMENTAL REMEDIATION LIAB	63,142.04
25900 · LESS CURRENT PORTION	-1,300,213.13
<b>Total Long Term Liabilities</b>	<b>4,422,841.93</b>
<b>Total Liabilities</b>	<b>11,167,254.88</b>
<b>Equity</b>	
30500 · INVESTMENT IN FIXED ASSETS	9,187,855.05
30900 · RESTRICTED FUND BALANCE	1,192,576.15
31200 · GENERAL FUND BALANCE	
31000 · FUND BALANCE - TIDELANDS TRUST	-2,314,896.20
31200 · GENERAL FUND BALANCE - Other	-296,797.86
<b>Total 31200 · GENERAL FUND BALANCE</b>	<b>-2,611,694.06</b>
<b>Net Income</b>	<b>79,823.81</b>
<b>Total Equity</b>	<b>7,848,560.95</b>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>19,015,815.83</b>

11:04 AM

## Humboldt Bay Harbor, Recreation & Conservation District Profit & Loss YTD Comparison

12/04/20

October 2020

Accrual Basis

	Oct 20	Jul - Oct 20
<b>Ordinary Income/Expense</b>		
<b>Income</b>		
47019 · Returned Check Charges	0.00	35.00
Discount	0.00	44.58
Dredging Revenue		
41318 · Dredging Surcharge - T	8,923.32	35,186.06
<b>Total Dredging Revenue</b>	8,923.32	35,186.06
Float Replacement Account		
41418 · Float Replacement	5,825.57	22,924.63
<b>Total Float Replacement Account</b>	5,825.57	22,924.63
Harbor Surcharge		
40908 · Harbor Improvement Surcharge-T	8,384.00	30,485.48
<b>Total Harbor Surcharge</b>	8,384.00	30,485.48
Utility Surcharge		
40409 · Utility Surcharge - NT	3,468.95	13,918.49
40418 · Utility Surcharge, Marina Dock	472.49	15,657.89
<b>Total Utility Surcharge</b>	3,941.44	29,576.38
Tax Revenue		
43809 · TIMBER YIELD TAX GUAR G/NT	0.00	3,000.00
43609 · HOMEOWNERS EXEMPT G/NT	0.00	3,501.00
43509 · Property Tax Revenues	92,289.00	362,655.00
<b>Total Tax Revenue</b>	92,289.00	369,156.00
Other Revenue		
45909 · Other Revenue - NT	50.00	3,947.15
45908 · Other Revenue - T	0.00	40.00
<b>Total Other Revenue</b>	50.00	3,987.15
Interest Revenue		
43109 · Interest Income - NT	13,479.00	53,916.00
43108 · Interest Income - T	185.56	750.24
<b>Total Interest Revenue</b>	13,664.56	54,666.24
Rent Income		
41108 · Rents, Tidelands Leases - T	31,859.41	129,334.24
40318.1 · Transient Rentals - T	3,936.17	14,943.87
40519 · Equipment Rent - NT	140.00	640.00
40809 · Yard Rent - NT	3,736.00	10,509.51
41309 · Storage - NT	5,052.80	21,498.70
41409 · Upland Rent - NT		
41409.2 · Redwood Terminal 2 - NMTC	5,007.69	20,030.76
41409 · Upland Rent - NT - Other	68,352.37	284,154.13
<b>Total 41409 · Upland Rent - NT</b>	73,360.06	304,184.89
40218 · Slip Rents - T	43,611.46	174,016.96
<b>Total Rent Income</b>	161,695.90	655,128.17
Fees		
40108 · PERMITS-T	100.00	1,350.00
41818 · Late Charges/Interest - T	825.00	3,150.00
45608 · Chevron - Ports O&M - T	0.00	8,087.50
41819 · Late Charges/Interest - NT	355.48	600.48
40808 · Pilotage Services - T	0.00	26,118.93
41308.1 · Poundage - T	0.00	628.17
<b>Total Fees</b>	1,280.48	39,935.08
Sales		

## Humboldt Bay Harbor, Recreation &amp; Conservation District

12/04/20

## Profit &amp; Loss YTD Comparison

Accrual Basis

October 2020

	Oct 20	Jul - Oct 20
40119 · Concession Sales - NT	366.00	1,736.00
<b>Total Sales</b>	366.00	1,736.00
<b>Donations</b>		
46519 · Donations - Lighthouse	0.00	1.00
<b>Total Donations</b>	0.00	1.00
<b>Total Income</b>	296,420.27	1,242,861.77
<b>Gross Profit</b>	296,420.27	1,242,861.77
<b>Expense</b>		
<b>Personnel Expenses</b>		
<b>Salaries/Wages</b>		
50100 · Salaries & Wages - NT	88,417.79	269,127.18
50108 · Salaries & Wages - T	0.00	1,002.23
<b>Total Salaries/Wages</b>	88,417.79	270,129.41
<b>Payroll Burden</b>		
6560 · Workers' Comp	4,264.67	13,237.78
50500 · Payroll Benefits, Other - NT	32,079.07	123,984.60
50508 · Payroll Benefits, Other - T	9,293.91	38,493.30
50510 · PAYROLL BENEFITS M/A	0.00	3,504.76
<b>Total Payroll Burden</b>	45,637.65	179,220.44
<b>Commissioners Fees</b>		
50200 · Commissioner's Salaries - NT	1,470.00	5,880.00
50208 · Commissioner's Salaries - T	630.00	2,520.00
<b>Total Commissioners Fees</b>	2,100.00	8,400.00
<b>Total Personnel Expenses</b>	136,155.44	457,749.85
<b>Advertising &amp; Promotion</b>		
51000 · Advertising & Promotion - NT	462.32	1,210.38
51008 · Advertising & Promotion - T	0.00	82.10
<b>Total Advertising &amp; Promotion</b>	462.32	1,292.48
<b>Communications</b>		
51400 · Communications - NT	1,983.39	7,925.10
51408 · Communications - T	427.67	1,688.96
<b>Total Communications</b>	2,411.06	9,614.06
<b>Conference &amp; Meetings</b>		
51500 · Conferences & Meetings - NT	201.13	925.64
<b>Total Conference &amp; Meetings</b>	201.13	925.64
<b>Dues, Subscriptions &amp; Licences</b>		
51600 · Dues & Subscriptions - NT	7,307.00	26,040.20
51608 · Dues & Subscriptions - T	0.00	125.25
<b>Total Dues, Subscriptions &amp; Licences</b>	7,307.00	26,165.45
<b>Elections &amp; Government Fees</b>		
51700 · Elections & Prop Tax Assess-NT	17,024.09	64,225.55
<b>Total Elections &amp; Government Fees</b>	17,024.09	64,225.55
<b>Insurance</b>		
51800 · Insurance - NT	7,531.42	31,827.96
51808 · Insurance - T	1,337.67	4,645.64
<b>Total Insurance</b>	8,869.09	36,473.60
<b>Office Supplies</b>		

## Humboldt Bay Harbor, Recreation & Conservation District Profit & Loss YTD Comparison

12/04/20

Accrual Basis

October 2020

	Oct 20	Jul - Oct 20
51900 · Office Supplies - NT	1,563.17	7,315.44
51908 · Office Supplies - T	481.73	2,266.38
51918 · OFFICE EXPENSE M/T	19.80	83.60
<b>Total Office Supplies</b>	<b>2,064.70</b>	<b>9,665.42</b>
<b>Maintenance Supplies</b>		
52010 · Maintenance Supplies - NT	968.16	4,315.60
52008 · Maintenance Supplies - T	0.00	9.98
<b>Total Maintenance Supplies</b>	<b>968.16</b>	<b>4,325.58</b>
<b>Permits</b>		
51618 · Permits - T	0.00	196.68
<b>Total Permits</b>	<b>0.00</b>	<b>196.68</b>
<b>Utilities</b>		
52909 · Utilities - NT	16,667.31	90,007.15
52918 · Utilities - T	6,506.82	23,542.29
53000 · Water, Sewer, & Refuse - NT	9,553.84	37,881.93
53008 · Water, Sewer, & Refuse - T	13,988.40	30,688.09
<b>Total Utilities</b>	<b>46,716.37</b>	<b>182,119.46</b>
<b>Fuel</b>		
50400 · IMPUTED AUTO VALUE G/A	117.60	352.80
51208 · Vessel Fuel	291.02	1,524.45
51218 · Automotive, Fuel - T	529.84	1,974.25
51200 · Automotive, Fuel- NT	504.64	1,538.21
<b>Total Fuel</b>	<b>1,443.10</b>	<b>5,389.71</b>
<b>Accounting/Auditing Services</b>		
52500 · Accounting Fees - T	7,804.80	14,509.80
52508 · Accounting Fees - NT	2,601.60	6,456.60
<b>Total Accounting/Auditing Services</b>	<b>10,406.40</b>	<b>20,966.40</b>
<b>Legal Services</b>		
52300 · Legal Fees - NT	2,547.25	10,243.76
52308 · Legal Fees - T	465.75	3,031.24
<b>Total Legal Services</b>	<b>3,013.00</b>	<b>13,275.00</b>
<b>Planning Services</b>		
52208 · Planning Fees - T	-53.00	-2,124.43
52200 · Planning Fees - NT	7,875.00	13,268.00
<b>Total Planning Services</b>	<b>7,822.00</b>	<b>11,143.57</b>
<b>Engineering Services</b>		
52400 · Engineering Fees - NT	1,910.00	6,714.54
52408 · Engineering Fees - T	0.00	13,800.60
<b>Total Engineering Services</b>	<b>1,910.00</b>	<b>20,515.14</b>
<b>Other Professional/Outside Serv</b>		
52110 · OUTSIDE SERVICES M/A	165.00	697.70
52109 · Outside Services, Other - NT	-3,042.18	784.98
52118 · Outside Services, Other - T	0.00	2,200.00
<b>Total Other Professional/Outside Serv</b>	<b>-2,877.18</b>	<b>3,682.68</b>
<b>Small Tools</b>		
52800 · Small Tools - NT	457.62	1,039.11
<b>Total Small Tools</b>	<b>457.62</b>	<b>1,039.11</b>
<b>Maintenance - Facilities</b>		
52708 · Repairs & Maint, Facilities - T	2,641.99	49,294.92

## Humboldt Bay Harbor, Recreation &amp; Conservation District

12/04/20

## Profit &amp; Loss YTD Comparison

Accrual Basis

October 2020

	Oct 20	Jul - Oct 20
52709 · REPAIRS & MAINTENANCE G/NT	0.00	200.00
52719 · Repairs & Maint, Facilities - N	3,780.68	27,301.38
<b>Total Maintenance - Facilities</b>	<b>6,422.67</b>	<b>76,796.30</b>
<b>Maintenance - Equipment</b>		
52718 · Repairs & Maint, Equip - T	129.73	811.82
52710 · Repairs & Maint, Equip - NT	424.68	8,405.78
51209 · Automotive, Repairs - NT	558.60	1,458.81
<b>Total Maintenance - Equipment</b>	<b>1,113.01</b>	<b>10,676.41</b>
<b>Maintenance - IT</b>		
57008 · Maintenance, IT Equip - T	0.00	105.00
57009 · Maintenance, IT Equip - NT	184.50	1,223.00
<b>Total Maintenance - IT</b>	<b>184.50</b>	<b>1,328.00</b>
<b>Dredging Expense</b>		
55608 · Dredging Expense - T	18.28	103.32
<b>Total Dredging Expense</b>	<b>18.28</b>	<b>103.32</b>
<b>Capital Outlay</b>		
53609 · Expenses Pending Transfer-Bldg	5,000.00	5,000.00
<b>Total Capital Outlay</b>	<b>5,000.00</b>	<b>5,000.00</b>
<b>Rent Expense</b>		
54308 · Redwood Terminal 2 Lease Exps	18,251.18	69,158.43
<b>Total Rent Expense</b>	<b>18,251.18</b>	<b>69,158.43</b>
<b>Interest Expense</b>		
55119 · INTEREST EXPENSE M/NT	0.00	9,328.00
55109 · Interest Expense - NT	8,856.11	26,154.29
55108 · Interest Expense - T	7,825.31	31,524.50
<b>Total Interest Expense</b>	<b>16,681.42</b>	<b>67,006.79</b>
<b>Other Expenses</b>		
55419 · Other Expenses - NT	784.00	799.00
<b>Total Other Expenses</b>	<b>784.00</b>	<b>799.00</b>
<b>Grant Expenses</b>		
<b>Harbor Grant Expenses</b>		
54408.1 · Harbor Grant Exp	30.00	120.00
<b>Total Harbor Grant Expenses</b>	<b>30.00</b>	<b>120.00</b>
<b>Conservation Grant Expenses</b>		
54408.3 · Conservation Grant Exp	10,185.58	63,284.33
<b>Total Conservation Grant Expenses</b>	<b>10,185.58</b>	<b>63,284.33</b>
<b>Total Grant Expenses</b>	<b>10,215.58</b>	<b>63,404.33</b>
<b>Total Expense</b>	<b>303,024.94</b>	<b>1,163,037.96</b>
<b>Net Ordinary Income</b>	<b>-6,604.67</b>	<b>79,823.81</b>
<b>Net Income</b>	<b>-6,604.67</b>	<b>79,823.81</b>

10:59 AM

Humboldt Bay Harbor, Recreation & Conservation District  
Account QuickReport

12/04/20

Accrual Basis

As of October 31, 2020

Type	Date	Num	Name	Memo	Amount
<b>10200.1 - Cash in BBVA, Checking</b>					
Liability Check	10/01/2020		QuickBooks Payroll Service	Created by Payroll Service on 09/30/...	-19,947.34
Bill Pmt -Check	10/13/2020		SDRMA	QuickBooks generated zero amount ...	0.00
Liability Check	10/15/2020		QuickBooks Payroll Service	Created by Payroll Service on 10/14/...	-19,215.63
Liability Check	10/29/2020		QuickBooks Payroll Service	Created by Payroll Service on 10/28/...	-22,534.59
Check	10/15/2020			Service Charge	-146.11
Liability Check	10/02/2020	EFT	PERS Unfunded Accrued Liab	2233447024	-4,443.63
Bill Pmt -Check	10/02/2020	EFT	CalPERS 457 Program	457Match 10/02/2020	-300.00
Liability Check	10/02/2020	EFT	CalPERS 457 Program	450348	-1,125.00
Liability Check	10/02/2020	EFT	State Disbursement Unit	0230000067964	-233.53
Liability Check	10/16/2020	EFT	CalPERS 457 Program	450348	-1,125.00
Bill Pmt -Check	10/16/2020	EFT	CalPERS 457 Program	457Match 10/16/2020	-300.00
Liability Check	10/16/2020	EFT	PERS Unfunded Accrued Liab	2233447024	-4,297.65
Liability Check	10/16/2020	EFT	State Disbursement Unit	0230000067964	-233.53
Bill Pmt -Check	10/30/2020	EFT	CalPERS 457 Program	457Match 10/30/2020	-300.00
Liability Check	10/30/2020	EFT	CalPERS 457 Program	450348	-1,125.00
Liability Check	10/30/2020	EFT	PERS Unfunded Accrued Liab	2233447024	-4,497.76
Liability Check	10/30/2020	EFT	State Disbursement Unit	0230000067964	-233.53
Bill Pmt -Check	10/30/2020	EFT	PERS Unfunded Accrued Liab	2233447024	-6,042.69
Liability Check	10/01/2020	E-pay	Employment Development Department	499-0307-3 QB Tracking # -1729271...	-171.92
Liability Check	10/14/2020	E-pay	Employment Development Department	499-0307-3 QB Tracking # 2004808...	-1,254.38
Liability Check	10/14/2020	E-pay	Tri Counties Bank	94-2262845 QB Tracking # 2004845...	-2,919.44
Liability Check	10/28/2020	E-pay	Employment Development Department	499-0307-3 QB Tracking # -1204477...	-1,409.41
Liability Check	10/28/2020	E-pay	Tri Counties Bank	94-2262845 QB Tracking # -120441...	-3,566.50
Bill Pmt -Check	10/07/2020	Wired	Humboldt Land Title Company	Simpson Paper Company APN: 401...	-5,000.00
Bill Pmt -Check	10/02/2020	60571	Advanced Security Systems	WIM	-184.50
Bill Pmt -Check	10/02/2020	60572	AT&T Internet	831-000-8571 571	-933.88
Bill Pmt -Check	10/02/2020	60573	B & B Portable Toilets	RWD	-105.78
Bill Pmt -Check	10/02/2020	60574	CAPA	Membership Dues FY 20/21 Q1 Pym...	-1,373.20
Bill Pmt -Check	10/02/2020	60575	City of Eureka (Sewer)	2001-901804-02	-4,657.10
Bill Pmt -Check	10/02/2020	60576	City of Eureka (Water)	2001-901802-01	-5,480.57
Bill Pmt -Check	10/02/2020	60577	Coastal Business Systems, Inc.	WIM Copier Lease 09/20/20-10/20/20	-268.22
Bill Pmt -Check	10/02/2020	60578	David L. Moonie & Company		-8,280.00
Bill Pmt -Check	10/02/2020	60579	Humboldt Community Services District	3165	-377.39
Bill Pmt -Check	10/02/2020	60580	John's Auto Electric		-259.13
Bill Pmt -Check	10/02/2020	60581	Mission Uniform & Linen	299313	-236.53
Bill Pmt -Check	10/02/2020	60582	Mitchell Law Firm, LLP		-3,405.50
Check	10/02/2020	60583	Woolsey, Dick	Tenant Refund	-191.10
Bill Pmt -Check	10/02/2020	60584	Bradley Tanks, Inc	Brownfield RMT2	-15,606.24
Bill Pmt -Check	10/02/2020	60585	Coldwell Banker Commerical PacificPart...	RMT2 - Truth Mobile LLC (Clarinet ...	-365.00
Bill Pmt -Check	10/02/2020	60586	Mission Uniform & Linen	299313	-348.86
Bill Pmt -Check	10/02/2020	60587	Nylex.net		-210.00
Bill Pmt -Check	10/02/2020	60588	Pacific Gas & Electric (8259-4) address	0074698259-4	-8,179.88
Bill Pmt -Check	10/02/2020	60589	Pacific Gas & Electric (Non-Energy)	2072047	-383.09
Bill Pmt -Check	10/02/2020	60590	Pintermedia LLC		-60.00
Bill Pmt -Check	10/02/2020	60591	Security Lock & Alarm		-245.17
Bill Pmt -Check	10/02/2020	60592	Southwest Answering Service		-195.00
Bill Pmt -Check	10/02/2020	60593	Standard Insurance Company	ST 908447 0001	-202.60
Bill Pmt -Check	10/02/2020	60594	World Oil Environmental Services		-1,182.84
Bill Pmt -Check	10/02/2020	60595	State Water Resource Control Board	Red Tank Dock 04/01/20 - 06/30/20...	-196.68
Bill Pmt -Check	10/16/2020	60598	MM Diving, Inc	Samoa Outfall Diving Project (PO #1...	-19,750.00
Bill Pmt -Check	10/16/2020	60600	ACWA JPIA	October 2020	-25,802.68
Bill Pmt -Check	10/16/2020	60601	AT&T Phone	707 443-0801 071 7	-838.03
Bill Pmt -Check	10/16/2020	60602	California Redwood Co.	Red Tank 08/18/20 - 09/16/20	-584.76
Bill Pmt -Check	10/16/2020	60603	Don's Rent-All	7197	-135.62
Bill Pmt -Check	10/16/2020	60604	Eureka-Humboldt Fire Extinguisher Co.	Fire extinguisher refill - USACE	-55.66
Bill Pmt -Check	10/16/2020	60605	Eureka Oxygen Company	Cylinder Rental	-181.40
Bill Pmt -Check	10/16/2020	60606	Humboldt Bay Municipal Water Dist.	9002.001 RMT2	-683.41
Bill Pmt -Check	10/16/2020	60607	Miller Farms Nursery	PO #1584	-580.71
Bill Pmt -Check	10/16/2020	60608	Napa Auto Parts		-840.47
Bill Pmt -Check	10/16/2020	60609	Pacific Gas & Electric (1906-4)	Acct #0670491906-4	-2,725.47
Bill Pmt -Check	10/16/2020	60610	Pacific Gas & Electric (3494-4)	6598073494-4	-143.35
Bill Pmt -Check	10/16/2020	60611	Schmidbauer Building Supply		-79.21
Bill Pmt -Check	10/16/2020	60612	US Bank Corporate Payment System	4246044555706765	-1,153.19
Bill Pmt -Check	10/16/2020	60613	Verizon Wireless		-77.21
Bill Pmt -Check	10/16/2020	60614	Waste Management	23-09580-43003	-90,688.28
Bill Pmt -Check	10/16/2020	60615	Pierson Building Center	1297	-515.27
Bill Pmt -Check	10/16/2020	60616	Recology Humboldt County (A00600002...	A0060000265	-2,230.89
Bill Pmt -Check	10/16/2020	60617	Reincke Marine Fabrication (RMF)		-11,880.00
Bill Pmt -Check	10/16/2020	60618	Shafer's Ace Hardware	1586	-17.32
Bill Pmt -Check	10/16/2020	60619	Western Chainsaw		-151.96
Bill Pmt -Check	10/19/2020	60621	101Netlink	WIM	-190.00
Bill Pmt -Check	10/19/2020	60622	AT&T Internet	831-000-8571 571	-933.88
Bill Pmt -Check	10/19/2020	60623	Englund Marine Supply		-362.01
Bill Pmt -Check	10/19/2020	60624	Hiley, Mindy	Notary Services for Dog Ranch Prop...	-75.00
Bill Pmt -Check	10/19/2020	60625	Law Offices of Nancy Diamond		-1,150.00
Bill Pmt -Check	10/19/2020	60626	Recology Eel River	061097997	-402.17
Bill Pmt -Check	10/19/2020	60627	Recology Humboldt County (061218064)	061218064	-668.90
Bill Pmt -Check	10/19/2020	60628	Shelter Cove Fishing Preservation Inc	SC Janitorial October 2020	-2,083.33

## Humboldt Bay Harbor, Recreation & Conservation District Account QuickReport

Accrual Basis

As of October 31, 2020

Type	Date	Num	Name	Memo	Amount
Bill Pmt -Check	10/19/2020	60629	Shelter Cove Resort Improvement District	SC	-407.12
Bill Pmt -Check	10/19/2020	60630	Staples Credit Plan	6035 5178 1247 5530	-552.25
Bill Pmt -Check	10/19/2020	60631	Valley Pacific Petroleum Services, Inc	114137	-753.78
Bill Pmt -Check	10/19/2020	60632	Verizon Wireless		-354.63
Bill Pmt -Check	10/19/2020	60633	David L. Moonie & Company		-660.00
Bill Pmt -Check	10/19/2020	60634	Humboldt Bay Solar Fund LLC	HB0520	-8,880.66
Bill Pmt -Check	10/19/2020	60635	Planwest Partners, Inc.		-3,087.00
Liability Check	10/30/2020	60637	Operating Engineers Local No. 3	94-2262845	-523.32
Bill Pmt -Check	10/30/2020	60638	B & B Portable Toilets	RWD	-105.78
Bill Pmt -Check	10/30/2020	60639	Bradley Tanks, Inc	Brownfield RMT2	-23,604.56
Bill Pmt -Check	10/30/2020	60640	City Clerks Association of California		-25.00
Bill Pmt -Check	10/30/2020	60641	City of Eureka (Sewer)	2001-901804-02	-3,338.78
Bill Pmt -Check	10/30/2020	60642	City of Eureka (Water)	2001-901802-01	-5,286.77
Bill Pmt -Check	10/30/2020	60643	Coast Seafood Co.	October 2020 Interest and Principal ...	-13,000.00
Bill Pmt -Check	10/30/2020	60645	Colantuono, Highsmith & Watley, PC		-1,660.50
Bill Pmt -Check	10/30/2020	60646	Eureka-Humboldt Fire Extinguisher Co.		-1,245.06
Bill Pmt -Check	10/30/2020	60647	Eureka Oxygen Company		-57.18
Bill Pmt -Check	10/30/2020	60648	Fortuna Iron	WIM Weldments	-404.28
Bill Pmt -Check	10/30/2020	60649	Humboldt Community Services District	3165	-368.63
Bill Pmt -Check	10/30/2020	60650	Kernen Construction	RMT2 Brownfield	-8,450.08
Bill Pmt -Check	10/30/2020	60651	Mario's Marina, LLC	Hotels for Employees SC Q2 2019	-784.00
Bill Pmt -Check	10/30/2020	60652	Mission Uniform & Linen	299313	-449.32
Bill Pmt -Check	10/30/2020	60653	North Coast Laboratories, LTD	FL	-257.00
Bill Pmt -Check	10/30/2020	60654	Pacific Gas & Electric (Non-Energy)	2072047	-323.51
Bill Pmt -Check	10/30/2020	60655	Security Lock & Alarm		-1,116.50
Bill Pmt -Check	10/30/2020	60656	World Oil Enviromental Services		-320.00
Bill Pmt -Check	10/30/2020	60657	Southwest Answering Service		-165.00
Bill Pmt -Check	10/30/2020	60658	Standard Insurance Company	ST 908447 0001	-202.60
Bill Pmt -Check	10/30/2020	60659	Valley Pacific Petroleum Services, Inc	114137	-92.40
Bill Pmt -Check	10/30/2020	60660	Western Chainsaw		-64.52
Check	10/30/2020	60661	Cerami, Joe.	1583 Tenant Refund	-203.80
Check	10/30/2020	60662	Lew, Will (Randy)	Tenant Refund	-191.10
Check	10/30/2020	60663	McNeil, Patrick.	Tenant Refund	-331.10
Bill Pmt -Check	10/30/2020	60664	Pacific Gas & Electric (8259-4) address	0074698259-4	-7,997.88
Total 10200.1 Cash in BBVA, Checking					-403,595.19
<b>TOTAL</b>					<b>-403,595.19</b>

COMMISSIONERS

- 1<sup>st</sup> Division  
Larry Doss
- 2<sup>nd</sup> Division  
Greg Dale
- 3<sup>rd</sup> Division  
Stephen Kullmann
- 4<sup>th</sup> Division  
Richard Marks
- 5<sup>th</sup> Division  
Patrick Higgins

**Humboldt Bay**  
**Harbor, Recreation and Conservation District**  
 (707)443-0801  
 P.O. Box 1030  
 Eureka, California 95502-1030



**STAFF REPORT**  
**HARBOR DISTRICT MEETING**  
**December 10, 2020**

**TO:** Honorable Board President and Harbor District Board Members

**FROM:** Larry Oetker, Executive Director

**DATE:** December 4, 2020

**TITLE: Introduce Amendment NO. 2 Ordinance NO. 7 An Ordinance Implementing Certain Portions of the Humboldt Bay Master Plan.**

**STAFF RECOMMENDATION:** Staff recommends that the Board: Introduce Amendment NO. 2 Ordinance NO. 7 An Ordinance Implementing Certain Portions of the Humboldt Bay Master Plan and consent to read by title only.

**SUMMARY:** There are existing billboards that occur within tidal and submerged lands under the regulatory jurisdiction of the District. The Humboldt Bay Management Plan does not adequately define District policy regarding billboards. The Board directed Staff to draft amendments to the Humboldt Bay Master Plan to clarify the District’s existing regulations prohibiting billboards from the tidal and submerged lands.

**DISCUSSION:** Existing Ordinance No. 7, among other provisions, prohibits all signs and related structures in the District’s tidal and submerged lands except when related to navigational, public safety, resource management and identification purposes. The District desires to further implement the existing Ordinance No. 7 billboard prohibition by amending Ordinance 7 to require that owners of non-conforming billboards obtain permits consistent with Ordinance No. 14 and to provide the mechanism for orderly billboard removal in a manner consistent with the District’s regulatory authority, its Ordinances, Plans, Policies, and with state law.

**ATTACHMENTS:**

- A. Draft Amendment NO. 2 Ordinance NO. 7
- B. September 10, 2020 Staff Report Humboldt Bay Management Plan Billboard Policy Amendment
- C. February 19, 2020 letter from Miller Starr Regaili representing Outfront Media LLC
- D. September 10, 2020 letter from Humboldt Baykeeper

HUMBOLDT BAY HARBOR, RECREATION,  
AND CONSERVATION DISTRICT

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AMENDMENT NO. 2 ORDINANCE NO. 7

AN ORDINANCE IMPLEMENTING  
CERTAIN PORTIONS OF THE  
HUMBOLDT BAY MASTER PLAN

THE BOARD OF COMMISSIONERS OF THE HUMBOLDT BAY HARBOR,  
RECREATION, AND CONSERVATION DISTRICT, DOES HEREBY ORDAIN AS  
FOLLOWS:

**Section 1. Findings and Purposes.** The Board of Commissioners (the "Board") of the Humboldt Bay Harbor, Recreation, and Conservation District (the "District") finds and declares as follows:

- (a) On September 16, 1976, the District adopted Ordinance No. 7 Implementing Certain Portions of the Humboldt Bay Master Plan pursuant to its authority as Trustee of the public trust, and under the police power enabling authority delegated to the District by the State of California in Appendix II of the Harbors and Navigation Code.
- (b) Ordinance No. 7, among other provisions, prohibits all signs and related structures in the District's tidal and submerged lands except when related to navigational, public safety, resource management and identification purposes.
- (c) On June 26, 1986, the District adopted Ordinance No. 14, prohibiting, among other provisions, the construction or repair of any structures on property within the District's jurisdiction without the owner first obtaining a permit from the District.
- (d) The District desires to further implement the existing Ordinance No. 7 billboard prohibition by amending Ordinance 7 to require that owners of non-conforming billboards obtain permits consistent with Ordinance No. 14 and to provide the mechanism for orderly billboard removal in a manner consistent with the District's regulatory authority, its Ordinances, Plans, Policies, and with state law.

**Section 2. Ordinance Amendment.** ARTICLE IV SECTION 9, ENVIRONMENTAL QUALITY, OF ORDINANCE NO. 7 IS HEREBY AMENDED BY INSERTING NEW LANGUAGE AFTER EXISTING SUBDIVISION (f) AS FOLLOWS:

(f) Signs and related structures, other than those that are necessary and approved by the District for navigational, public safety, resource management and identification purposes shall be eliminated and prohibited from the tidal and submerged lands within the jurisdiction of the District.

- 1) **Billboards and Off Premises Signs:** Billboards and off premises signs and structures are inconsistent with the purposes and standards of the District's regulatory and

jurisdictional authority and are, therefore, prohibited in all Planning Designations in Article III of this Ordinance No. 7.

- a) *New Billboards and Off Premises signs and structures:* No new billboards or off premises signs and structures shall be permitted.
- b) *Illegal Billboards and Off Premises Signs and Structures:* A billboard or off premises sign or structure that has not continuously occupied a site since September 16, 1976, and does not have an active permit from the District, shall be deemed an illegal sign and shall be subject to removal in compliance with this Ordinance No. 7.
- c) *Existing Non-conforming Billboards and Off Premises Signs and Structures:* A billboard or off premises sign or structure that was erected in conformance with state law and local ordinances in effect at the time of its erection or that was subsequently brought into full compliance with state law and local ordinances, and that has continuously occupied the same site without expansion or modification other than customary maintenance, shall be deemed to be a non-conforming billboard or off premise sign or structure. The elimination of existing non-conforming billboards and off premises signs is as important to the Humboldt Bay aesthetic and public health, safety, and welfare as the prohibition of new billboards and off premises signs that would violate the provisions of this section and because findings cannot be made pursuant to Harbors and Navigation Code Appendix 2 Section 24. It is also recognized that non-conforming billboards and off premises signs should be eliminated in a manner that avoids an unreasonable invasion of established property rights. With these goals in mind, the District regulates non-conforming billboards and off premises signs as outlined below.
  - 1) *Non-conforming Billboards and Off Premises Signs Elimination.* Nonconforming billboards and off premises signs or structures shall be discontinued and removed from their sites after a reasonable amortization period which shall be specified in the District permit authorizing the billboard or off premises sign or structure. The District hereby finds that five years is presumptively a reasonable amortization period, or until January 31, 2026, because it provides the sign owner adequate time to recover capital investment and is consistent with the length of time for an outdoor advertising permit issued by the California Department of Transportation (CalTrans). This five year presumption amortization period is subject to rebuttal by the permit holder and the permit review authority may define an alternative amortization period based on the evidence presented at their discretion.
  - 2) *Continuation and maintenance.* Until the end of the reasonable amortization period specified in the District permit, a nonconforming billboard or off premises sign may be continued in operation and maintained, but may not be:
    - i. Replaced with another nonconforming billboard or off premises sign;
    - ii. Moved to another location on the property; or

- iii. Expanded or enlarged.
- 3) *Allowed change in copy.* The copy on a non-conforming billboard and off premises sign may be changed before the expiration of the amortization period without a permit provided that the change of copy does not increase the sign area or make the sign more non-conforming.
- d) *Maintenance, Repair or Reconstruction.* Provided that repair or reconstruction is started within one year and diligently pursued to completion, non-conforming billboards and off premises signs may be reconstructed and the nonconforming use may be resumed until the end of the amortization period as follows:
- 1) Permit approved by the Executive Director pursuant to District Ordinance No. 14.
    - i. Structures may have “like for like” repair work completed, as long as there is no enlargement or expansion of the structure or use and all repair is completed above the water level at the time repair work is completed.
    - ii. Structures which are damaged by high winds, destroyed by fire, or other calamity may with have the portions of the damaged structure above water level at the time the repair work is completed restored.
    - iii. Structures which are damaged by vandalism may be repaired or replaced and existing piles and anchors reattached provided that the applicant provides documentation that the work is not in any way enlarged over the existing structure and the work will have no significant impact on biological resources.
  - 2) All reconstruction not completed under section d)1) above shall require an Administrative Permit in accordance with Ordinance No. 14 Section 1.09.
  - 3) All permits shall contain at a minimum condition(s):
    - i. Giving notice that the sign, structure and use remain nonconforming to the Humboldt Bay Master Plan.
    - ii. Stating reasonable amortization period after which the billboard shall be removed.
    - iii. Requiring the applicant to provide financial assurance in an amount and form acceptable to the Executive Director to ensure that the billboard is removed by the end of the reasonable amortization period.
  - 4) Consistent with Ordinance No. 14, Section 24, no permit may be issued authorizing an ongoing billboard or off premise sign or structure use, or its

maintenance, repair, or reconstruction, without the District first considering of the impact of the proposed use on the air, water, land, environment, and ecology of the District's lands, and thereafter finding that the proposed use is necessary to promote the safety, health, comfort and public convenience of the public, that the proposed use is required by the public convenience, and that the proposed use will not have an adverse environmental or ecological effect.

- e) *Billboard Declared a Nuisance.* Any billboard or off premises sign or structure operated in violation of Ordinance No. 7, or the District's permit is deemed a nuisance and subject to abatement.



COMMISSIONERS  
1<sup>st</sup> Division  
Larry Doss  
2<sup>nd</sup> Division  
Greg Dale  
3<sup>rd</sup> Division  
Stephen Kullmann  
4<sup>th</sup> Division  
Richard Marks  
5<sup>th</sup> Division  
Patrick Higgins

**Humboldt Bay**  
**Harbor, Recreation and Conservation District**  
(707)443-0801  
P.O. Box 1030  
Eureka, California 95502-1030

**STAFF REPORT – HARBOR DISTRICT MEETING**  
**January 23, 2020**

**TO:** Honorable Board President and Harbor District Board Members

**FROM:** Larry Oetker, Executive Director

**DATE:** January 16, 2020

**TITLE:** Humboldt Bay Management Plan Billboard Policy Amendment

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**RECOMMENDATION:** Staff recommends the Board amend the Humboldt Bay Management Plan with a clear policy regarding permitting of billboards.

**BACKGROUND:** There are existing billboards that occur within tidal and submerged lands granted to the District. The District has regulatory jurisdiction over these areas. On December 30, 2019, the District received an application to rebuild a billboard that collapsed during a storm. It is anticipated that similar applications will be received by the District in the future. The Humboldt Bay Management Plan does not adequately define District policy regarding billboards. District staff requests that the District Board of Commissioners provide direction regarding revisions to the Humboldt Bay Management Plan that would provide clarity regarding billboard policy. Specifically, District staff seeks direction as to whether billboard maintenance or construction can be permitted by the District. The following information is pertinent to the District's policy regarding billboards.

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**Humboldt Bay Management Plan Policy RVR-7** states that:

The District shall investigate its responsibilities with respect to billboard management issues affecting the Humboldt Bay area, including regulatory and legal issues related to possible control measures. Based on this investigation, the District may develop, if appropriate, policy alternatives with respect to the future siting or construction of billboards in areas subject to the District's jurisdiction.

Although this language is specific to *future* siting or construction of billboards, the Board has authority to also develop policy regarding maintenance of existing billboards. District staff is requesting guidance regarding both future siting/construction of billboards and maintenance of existing billboards.

---

**Harbor District Ordinance 14, Section 1.01(a)** states that:

It shall be unlawful for any person, agency, association, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy, maintain any building, structure, piling, dock, pipeline, or to dredge, fill, or alter, or cause, or permit the same to be done in, or upon Humboldt Bay, Humboldt County, California, within

the jurisdiction of the Humboldt Bay Harbor, Recreation and Conservation District, as defined in Appendix 2 of the California Harbors and Navigation Code, without first obtaining a permit, grant, franchise, lease, right, or privilege from the Humboldt Bay Harbor Recreation and Conservation District.

Ordinance 14 is routinely relied upon by the District to issue permits for construction and maintenance of structures in District jurisdiction, including but not limited to docks and mariculture equipment. However, the District has never received a permit application or issued a permit for billboard maintenance or construction.

---

**District Ordinance 7 Article IV, Section 9(f)** states that:

Signs and related structures, other than those that are necessary and approved by the District for navigational, public safety, resource management and identification purposes shall be eliminated and prohibited from the tidal and submerged lands within the jurisdiction of the District.

Billboards, as considered by this staff report and related policy, do not provide for navigational, public safety, resource management or identification purposes. Rather, the billboards considered are used for commercial advertising. Hence, based on Ordinance 7, billboards shall be eliminated and prohibited from the tidal and submerged lands within the jurisdiction of the District.

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**A letter from State Lands Commission to the City of Oakland (dated January 28, 2013)** provides guidance regarding consistency of billboards with the public trust. The letter states:

Billboards, as they are not water-dependent and do not promote the statewide public's enjoyment of trust lands, would not fall under the category of being consistent with the public trust. However, under certain limited circumstances, temporary non-trust uses that do not interfere with existing or future trust uses and needs, but support and benefit the trust economically may be determined to be not inconsistent with trust needs and allowable by the trustee.

**DISCUSSION:**

District staff requests that the District Board of Commissioners provide direction regarding revisions to the Humboldt Bay Management Plan that would provide clarity regarding billboard policy. Specifically, District staff seeks policy level direction as to whether billboard maintenance or construction can be permitted by the District.



1331 N. California Blvd.  
Fifth Floor  
Walnut Creek, CA 94596

T 925 935 9400  
F 925 933 4126  
www.mslegal.com

Travis Brooks  
travis.brooks@mslegal.com

February 19, 2020

RECEIVED  
FEB 20 2020  
H.B.H.R. & C.D.

**Via Overnight Mail**

Board of Commissioners  
Humboldt Bay Harbor District  
601 Startare Drive  
Eureka, California 95501

Re: Potential Adoption of Regulations Impacting Maintenance of Advertising Displays in the Humboldt Bay Harbor District

Honorable Commissioners:

Miller Starr Regalia represents Outfront Media LLC, which operates multiple advertising displays along the western edge of Highway 101 and within the Harbor District's jurisdiction. It has come to our attention that the Board of Commissioners may consider adopting policies or regulations related to the maintenance of advertising displays located within the District's jurisdiction at its meeting on February 27, 2020.

The purpose of this letter is to respectfully direct the Board's attention to the state Outdoor Advertising Act ("the Act"), which protects the rights of display owners and operators to maintain lawfully constructed billboards in all jurisdictions in the state. Section 5412 of the Outdoor Advertising Act (Business & Professions Code ["BPC"], § 5200 et seq) provides, in part:

... [N]o advertising display which was lawfully erected anywhere within the state shall be compelled to be removed, nor shall its customary maintenance or use be limited, whether or not the removal or limitation is pursuant to or because of this chapter or any other law, ordinance, or regulation of any government entity, without payment of compensation, as defined in the Eminent Domain Law ...

(Emph. added.) Pursuant to California's Outdoor Advertising Act, Outfront is entitled to conduct "customary maintenance" of its billboards without limitation by "law, ordinance, or regulation of *any government entity*, without payment of compensation..." (BPC, § 5412.) The concept of "customary maintenance" is well defined by state regulation as follows:

any activity performed on a Display for the purposes of maintaining the Display in its existing approved physical configuration and size dimensions... for the duration of its normal life.

(4 Cal. Code Regs., § 2270.)

The Act preempts any prospective District regulation or ordinance that would interfere with the customary maintenance or use of Outfront's displays in the District. State law prohibits the District from enacting such policy or regulation that does not provide for compensation under the Eminent Domain Law. To the extent that the Harbor District enacts any regulations limiting the use or customary maintenance of advertising displays without the payment of compensation, it would be in violation of state law, specifically Section 5412 of the Business and Professions Code.

Going forward, we request to be notified of any public hearings or other official action by the Board of Commissioners on this issue. We thank you for your attention to these matters. Please do not hesitate to contact our office if you have any questions or comments regarding the above.

Very truly yours,

MILLER STARR REGALIA



Travis Brooks

cc: Anthony Leones, Miller Starr Regalia

Jeff McCuen, Outfront Media

Larry Oetker, Humboldt Bay Harbor District, loetker@humboldtbay.org

Adam Wagshal, Humboldt Bay Harbor District, awagschal@humobldtbay.org

Mindy Hiley, Humboldt Bay Harbor District, mhiley@humboldtbay.org

TZB:tzb



Sept. 10, 2020

Humboldt Bay Harbor, Recreation, and Conservation District  
P.O. Box 1030  
Eureka, California 95502-1030

*Sent via email*

Re: Amendment 2 to Ordinance 7, An Ordinance Implementing Certain Portions of the Humboldt Bay Master Plan

Dear Commissioners,

I am writing on behalf of Humboldt Baykeeper in support of the Humboldt Bay Management Plan Billboard Policy Amendment. Humboldt Baykeeper works to safeguard our coastal resources for the health, enjoyment, and economic strength of the Humboldt Bay community, and is a member of the California Coastkeeper Alliance and the international Waterkeeper Alliance.

The Humboldt Bay Harbor, Recreation, and Conservation District was formed by the voters of Humboldt County in 1970, with enabling legislation added to the California Harbors and Navigation Code which granted to the district “all the right, title, and interest of the State of California held by virtue of its sovereignty in and to any ungranted tidelands and submerged lands, whether filled or unfilled, situated within Humboldt Bay, as defined in subdivision (t) of Section 3 of this act. The district shall hold such lands in trust for the uses and purposes and subject to the terms and conditions which are set forth in this act.” (CA HARB & NAV Appendix II §18.)

By virtue of their location within submerged wetlands, the billboards in the District’s jurisdiction are subject to the public trust doctrine. (*Marks v. Whitney*, (1971) 6 Cal.3d 251, 259.) As a result, whatever rights billboard owners have in the subject property, it holds “those rights subject to the [public] trust, and can assert *no vested right to use those rights in a manner harmful to the trust.*” (*Stanford Vina Ranch Irrigation Co. v. State of California* (2020) 50 Cal.App.5th 976, 995 [emphasis added] [quoting *Santa Barbara Channelkeeper v. City of San Buenaventura* (2018) 19 Cal.App.5th 1176, 1185-86].)

Even where property owners argue for a vested or grandfathered permitting right, there can be no legally vested right to impair trust resources. The public may successfully leverage the Public Trust Doctrine to enforce and defend public trust uses, even as against vested property rights. (*Marks, supra*, at 261-263.)

Mailing Address: 600 F Street, Suite 3 #810  
Office: 415 I Street, Arcata, CA 95521  
(707) 499-3678

[www.humboldtbykeeper.org](http://www.humboldtbykeeper.org)



Thus, the state and its agencies have the authority and affirmative duty to preserve and protect public trust resources that are affected by its decisions, so far as consistent with the public interest. *Nat. Audubon Society v. Super. Ct.* (1983) 33 Cal.3d 419, 426, 446-447. Furthermore, the state has the power and duty to *reconsider* decisions affecting the public trust, even those concerning vested property rights. (*Id.* at 447.)

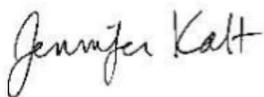
A letter from State Lands Commission to the City of Oakland (dated January 28, 2013) provides guidance regarding consistency of billboards with the public trust. The letter states:

Billboards, as they are not water-dependent and do not promote the statewide public's enjoyment of trust lands, would not fall under the category of being consistent with the public trust. However, under certain limited circumstances, temporary non-trust uses that do not interfere with existing or future trust uses and needs, but support and benefit the trust economically may be determined to be not inconsistent with trust needs and allowable by the trustee.

Ordinance 7 states that billboards shall be eliminated and prohibited from the tidal and submerged lands within the jurisdiction of the District, and that "Signs and related structures, other than those that are necessary and approved by the District for navigational, public safety, resource management and identification purposes shall be eliminated and prohibited from the tidal and submerged lands within the jurisdiction of the District."

Humboldt Baykeeper supports the intent of Amendment 2 to Ordinance 7 that was made publicly available on Sept. 9, 2020, and we look forward to review of the final version of the ordinance. It is long overdue for the District to adopt such a policy consistent with Ordinance 7

Sincerely,

A handwritten signature in black ink that reads "Jennifer Kalt". The signature is written in a cursive, flowing style.

Jennifer Kalt, Director

[jkalt@humboldtbaykeeper.org](mailto:jkalt@humboldtbaykeeper.org)

## COMMISSIONERS

1<sup>st</sup> Division

Larry Doss

2<sup>nd</sup> Division

Greg Dale

3<sup>rd</sup> Division

Stephen Kullmann

4<sup>th</sup> Division

Richard Marks

5<sup>th</sup> Division

Patrick Higgins

**Humboldt Bay**  
**Harbor, Recreation and Conservation District**  
 (707)443-0801  
 P.O. Box 1030  
 Eureka, California 95502-1030



**STAFF REPORT**  
**HARBOR DISTRICT MEETING**  
**December 10, 2020**

**TO:** Honorable Board President and Harbor District Board Members

**FROM:** Larry Oetker, Executive Director

**DATE:** December 4, 2020

**TITLE: Consider approving the First Amendment to Limited Obligation Note and Loan Documents With Coast Seafoods.**

**STAFF RECOMMENDATION:** Staff recommends that the Board: Authorize the Executive Director to execute the First Amendment to Limited Obligation Note and Loan Documents with Coast Seafoods.

**SUMMARY:** In 2014 the Harbor District borrowed up to \$1.25 million from Coast Seafood to remove hazardous material from the former Pulp Mill which is now owned by the Harbor District. The \$1.25 million was used to leverage over \$10 million of additional funds from the USEPA to clean up the property. The Harbor District has been making payments on this loan, and the proposed amendment outlines the terms whereas the Harbor District will payoff the loan in full by March 2023.

**DISCUSSION:** The records document that during the negotiations for the acquisition of the former Pulp Mill, the Harbor District learned of the huge volume of stored chemicals and past attempts to remove them from the site. The Samoa Pulp Mill was constructed in the early 1960's and operated under various owners until 2008 when operations came to an end. From 2008 until 2013 various investors sought funding to restart operations but were ultimately unsuccessful.

Negotiations by the Harbor District to acquire easements and property failed many times over a 14-month period, but continued as major hurdles were overcome, including inclusion of the mill's major assets, such as the power island; zero purchase price; financial commitment from the oyster industry to remove the chemicals and access to catastrophic spill insurance. During the negotiation period, the Harbor District kept the public informed of the potential purchase and received overwhelming support from the Oyster Industry, the environmental community, State and County regulatory agencies along with our State and Federal representatives. The support was centered on the cleanup and

development of the site and removal of the potential catastrophic impact to Humboldt Bay if a large spill occurred. On August 13, 2013 the Harbor District Commission approved the purchase of the Samoa Pulp Mill accepting the responsibility of all the above ground waste, including the pulping chemicals.

On August 23, 2013, then Harbor Commissioner Mike Wilson learned that an EPA emergency response representative was inspecting the Indian Island project, that was managed by current Harbor District President Stephen Kullmann and asked the representative to visit the pulp mill site. The EPA representative was Steve Calanog, Region 9 Emergency Response Section, On-Scene Coordinator, who was alarmed immediately by the condition of the facility, the proximity to Humboldt Bay and the imminent threat. Mr. Calanog returned to Region 9 office in San Francisco to report his findings to the Region's Director, which initiated the emergency response. Several weeks later the Emergency response team returned with contractors and US Coast Guard Strike Team to reduce tank volumes to safe levels and stabilized the site. Because of the critical nature of the site, this work was done during the Federal Government shutdown, only a few critical EPA sites were authorized during the shutdown. Congressman Jared Huffman, Senator Dianne Feinstein and Senator Barbara Boxer were instrumental in garnering the EPA's Director support and fund the project.

The USEPA and START contractors conducted two site-walks/removal assessments of the facility. Approximately 30 bulk storage tanks in various states of decay contain approximately 4 million gallons of pulping liquor - a highly corrosive liquid (> 13 pH) and approximately 10,000 gallons of sulphuric and hydrochloric acids were identified. In addition, approximately 10,000 gallons of fuel and turpentines, as well as, over 3,000 tons of corrosive sludges were on-site. It was observed that the majority of tanks were leaking and also accumulating rainwater.

The former Pulp Mill was located on Humboldt Bay and within 800 yards of the Pacific Ocean that is home to a wide variety of threatened and endangered species and is also the center of a growing and vibrant shellfish industry. The deep-water ocean canyons off Humboldt Bay coupled with offshore winds and current upwelling make for year-round food source for Humboldt Bay oysters. Humboldt Bay is also "certified disease free" which allows oyster seed to be shipped anywhere. The entire West Coast oyster industry relies on Humboldt Bay for oyster and clam seed development with the Coast's largest producers, Pacific Seafood and Taylor Mariculture operations, producing millions of seed per year. Both companies have expansion plans in process, with Taylor being the first new tenant to occupy the pulp mill for an oyster seed setting operation. Coast Seafood with parent company Pacific Seafood, the largest producer and distributor of seafood on the West Coast, was so concerned with the potential spill threat that they provided the Harbor District with a Letter of Credit for \$1.25 million to pay for the pulping chemical removal.

In June 2015, the Harbor District signed an Administrative Settlement Agreement with Response Costs with the USEPA which leveraged the \$1.25 million loan from Coast Seafood to secure over \$10 million of assistance from the USEPA to remove the hazardous material from the property. The Harbor District is responsible to repay the USEPA if certain provisions of the Settlement Agreement are not fulfilled by the Harbor District.

Since 2015, the Harbor District has continued our positive working relationship with the USEPA, Coast Seafoods, and the shellfish industry. The Harbor District has secured three additional clean-up and assessment grants from the USEPA, completes quarterly groundwater monitoring, and meets quarterly with the USEPA, State Water Board, and other regulatory agencies to ensure that the site cleanup and redevelopment plans proceed on schedule. The most recent contamination reports found no contaminants in the soil that were above the levels which would require clean-up.

The Harbor District invested over \$8 million into renovating buildings on the site and has installed the largest photovoltaic solar array in Humboldt County on the roof of the warehouse building which supplies carbon free power for all Harbor District properties around the Bay. The Pull Mill property has gone from dilapidation, environmental hazard, and blight with no business/economic activity to 18 onsite businesses with over 100 employees and has signed a new lease with Nordic Aquafarms to construct approximately 600,000 square feet of state of the art recirculating aquaculture facilities with approximately \$500 million investment into the property. The Harbor District also recently signed a lease for up to four trans-Pacific fiber optic cable to land at the property. A new wastewater treatment plant has been constructed and is permitted to discharge out the property's ocean outfall pipe.

The former Pulp Mill and the assets which were saved by the Harbor District are now the center of a renewed effort by several governmental and private developers to revitalize the entire Samoa Peninsula. All of this would not have been possible if the Harbor District did not take the risk to acquire the former Pulp Mill and without the initial \$1.25 million line of credit that Coast Seafoods provided the Harbor District. The Harbor District and the community at large owes Coast Seafoods a debt of gratitude. The oyster industry has been hit hard by the COVID 19 pandemic and the Harbor District hopes that our rapid repayment plan will assist Coast Seafood during this difficult time.

#### **ATTACHMENTS:**

- A. Note Payment Schedule
- B. First Amendment to Limited Obligation Note and Load Documents (**Will be available at the District's website by 5:00 pm Wednesday, December 9<sup>th</sup>**)

**Humboldt Bay Harbor, Recreation, and Conservation District Loan Repayment Proposal**

Starting Balance	\$ 1,155,872.00
Interest Rate	4.5000%
Loan Term (Years)	10.00
Payment	\$13,000.00

**Skip-a-Pay (Compound Interest)**

	No.	Starting Balance	Payments			Extra Principal	Ending Balance
				Extra	Interest		
5/1/2018	1	\$ 1,155,872.00		\$ -	\$ 4,334.52	\$ (4,334.52)	\$ 1,160,206.52
6/1/2018	2	\$ 1,160,206.52		\$ -	\$ 4,350.77	\$ (4,350.77)	\$ 1,164,557.29
7/1/2018	3	\$ 1,164,557.29		\$ -	\$ 4,367.09	\$ (4,367.09)	\$ 1,168,924.38
8/1/2018	4	\$ 1,168,924.38		\$ -	\$ 4,383.47	\$ (4,383.47)	\$ 1,173,307.85
9/1/2018	5	\$ 1,173,307.85		\$ -	\$ 4,399.90	\$ (4,399.90)	\$ 1,177,707.76
9/1/2018	6	\$ 1,177,707.76		\$ -	\$ 4,416.40	\$ (4,416.40)	\$ 1,182,124.16
10/1/2018	7	\$ 1,182,124.16		\$ -	\$ 4,432.97	\$ (4,432.97)	\$ 1,186,557.12
11/1/2018	8	\$ 1,186,557.12		\$ -	\$ 4,449.59	\$ (4,449.59)	\$ 1,191,006.71
12/1/2018	9	\$ 1,191,006.71		\$ -	\$ 4,466.28	\$ (4,466.28)	\$ 1,195,472.99
1/1/2019	10	\$ 1,195,472.99		\$ -	\$ 4,483.02	\$ (4,483.02)	\$ 1,199,956.01
2/1/2019	11	\$ 1,199,956.01		\$ -	\$ 4,499.84	\$ (4,499.84)	\$ 1,204,455.85
3/1/2019	12	\$ 1,204,455.85		\$ -	\$ 4,516.71	\$ (4,516.71)	\$ 1,208,972.56
4/1/2019	13	\$ 1,208,972.56		\$ -	\$ 4,533.65	\$ (4,533.65)	\$ 1,213,506.20
5/1/2019	14	\$ 1,213,506.20		\$ -	\$ 4,550.65	\$ (4,550.65)	\$ 1,218,056.85
6/1/2019	15	\$ 1,218,056.85		\$ -	\$ 4,567.71	\$ (4,567.71)	\$ 1,222,624.57
7/1/2019	16	\$ 1,222,624.57		\$ -	\$ 4,584.84	\$ (4,584.84)	\$ 1,227,209.41
8/1/2019	17	\$ 1,227,209.41	\$ 83,717.00	\$ -	\$ 4,602.04	\$ 79,114.96	\$ 1,148,094.44
9/1/2019	18	\$ 1,148,094.44	\$ 23,910.00	\$ -	\$ 4,305.35	\$ 19,604.65	\$ 1,128,489.80
10/1/2019	19	\$ 1,128,489.80		\$ -	\$ 4,231.84	\$ (4,231.84)	\$ 1,132,721.63
11/1/2019	20	\$ 1,132,721.63	\$ 35,862.00	\$ -	\$ 4,247.71	\$ 31,614.29	\$ 1,101,107.34
12/1/2019	21	\$ 1,101,107.34	\$ 13,000.00	\$ -	\$ 4,129.15	\$ 8,870.85	\$ 892,282.64
1/1/2020	22	\$ 892,282.64	\$ 13,000.00	\$ -	\$ 3,346.06	\$ 9,653.94	\$ 882,628.70
2/1/2020	23	\$ 882,628.70	\$ 13,000.00	\$ -	\$ 3,309.86	\$ 9,690.14	\$ 872,938.56
3/1/2020	24	\$ 872,938.56	\$ 13,000.00	\$ -	\$ 3,273.52	\$ 9,726.48	\$ 863,212.08
4/1/2020	25	\$ 863,212.08	\$ 13,000.00	\$ -	\$ 3,237.05	\$ 9,762.95	\$ 853,449.13
5/1/2020	26	\$ 853,449.13	\$ 13,000.00	\$ -	\$ 3,200.43	\$ 9,799.57	\$ 843,649.56
6/1/2020	27	\$ 843,649.56	\$ 13,000.00	\$ -	\$ 3,163.69	\$ 9,836.31	\$ 833,813.25
7/1/2020	28	\$ 833,813.25	\$ 13,000.00	\$ -	\$ 3,126.80	\$ 9,873.20	\$ 823,940.05
8/1/2020	29	\$ 823,940.05	\$ 13,000.00	\$ -	\$ 3,089.78	\$ 9,910.22	\$ 814,029.82
9/1/2020	30	\$ 814,029.82	\$ 13,000.00	\$ -	\$ 3,052.61	\$ 9,947.39	\$ 804,082.43
10/1/2020	31	\$ 804,082.43	\$ 13,000.00	\$ -	\$ 3,015.31	\$ 9,984.69	\$ 794,097.74
11/1/2020	32	\$ 794,097.74	\$ 13,000.00	\$ -	\$ 2,977.87	\$ 10,022.13	\$ 784,075.61
12/1/2020	33	\$ 784,075.61	\$ 13,000.00	\$ -	\$ 2,940.28	\$ 10,059.72	\$ 774,015.89
1/1/2021	34	\$ 774,015.89	\$ 13,000.00	\$ -	\$ 2,902.56	\$ 10,097.44	\$ 763,918.45
2/1/2021	35	\$ 763,918.45	\$ 13,000.00	\$ -	\$ 2,864.69	\$ 10,135.31	\$ 713,783.15
3/1/2021	36	\$ 713,783.15	\$ 13,000.00	\$ -	\$ 2,676.69	\$ 10,323.31	\$ 703,459.83
4/1/2021	37	\$ 703,459.83	\$ 13,000.00	\$ -	\$ 2,637.97	\$ 10,362.03	\$ 693,097.81
5/1/2021	38	\$ 693,097.81	\$ 13,000.00	\$ -	\$ 2,599.12	\$ 10,400.88	\$ 682,696.92
6/1/2021	39	\$ 682,696.92	\$ 13,000.00	\$ -	\$ 2,560.11	\$ 10,439.89	\$ 672,257.04
7/1/2021	40	\$ 672,257.04	\$ 13,000.00	\$ -	\$ 2,520.96	\$ 10,479.04	\$ 661,778.00
8/1/2021	41	\$ 661,778.00	\$ 13,000.00	\$ -	\$ 2,481.67	\$ 10,518.33	\$ 651,259.67
9/1/2021	42	\$ 651,259.67	\$ 13,000.00	\$ -	\$ 2,442.22	\$ 10,557.78	\$ 640,701.89
10/1/2021	43	\$ 640,701.89	\$ 13,000.00	\$ -	\$ 2,402.63	\$ 10,597.37	\$ 630,104.52
11/1/2021	44	\$ 630,104.52	\$ 13,000.00	\$ -	\$ 2,362.89	\$ 10,637.11	\$ 619,467.42
12/1/2021	45	\$ 619,467.42	\$ 13,000.00	\$ -	\$ 2,323.00	\$ 10,677.00	\$ 608,790.42

1/1/2022	46	\$	608,790.42	\$	13,000.00	\$	-	\$	2,282.96	\$	10,717.04	\$	598,073.38		
2/1/2022	47	\$	598,073.38	\$	13,000.00	\$	-	\$	2,242.78	\$	10,757.22	\$	40,000.00	\$	547,316.16
3/1/2022	48	\$	547,316.16	\$	13,000.00	\$	-	\$	2,052.44	\$	10,947.56	\$	536,368.59		
4/1/2022	49	\$	536,368.59	\$	13,000.00	\$	-	\$	2,011.38	\$	10,988.62	\$	525,379.98		
5/1/2022	50	\$	525,379.98	\$	13,000.00	\$	-	\$	1,970.17	\$	11,029.83	\$	514,350.15		
6/1/2022	51	\$	514,350.15	\$	13,000.00	\$	-	\$	1,928.81	\$	11,071.19	\$	503,278.96		
7/1/2022	52	\$	503,278.96	\$	13,000.00	\$	-	\$	1,887.30	\$	11,112.70	\$	492,166.26		
8/1/2022	53	\$	492,166.26	\$	13,000.00	\$	-	\$	1,845.62	\$	11,154.38	\$	481,011.88		
9/1/2022	54	\$	481,011.88	\$	13,000.00	\$	-	\$	1,803.79	\$	11,196.21	\$	469,815.68		
10/1/2022	55	\$	469,815.68	\$	13,000.00	\$	-	\$	1,761.81	\$	11,238.19	\$	458,577.49		
11/1/2022	56	\$	458,577.49	\$	13,000.00	\$	-	\$	1,719.67	\$	11,280.33	\$	447,297.15		
12/1/2022	57	\$	447,297.15	\$	13,000.00	\$	-	\$	1,677.36	\$	11,322.64	\$	435,974.52		
1/1/2023	58	\$	435,974.52	\$	13,000.00	\$	-	\$	1,634.90	\$	11,365.10	\$	424,609.42		
2/1/2023	59	\$	424,609.42	\$		\$	-	\$	1,592.29	\$	(1,592.29)	\$	426,201.71	\$	-
3/1/2023															
4/1/2023															
5/1/2023															
6/1/2023															

## COMMISSIONERS

1<sup>st</sup> Division  
Larry Doss  
2<sup>nd</sup> Division  
Greg Dale  
3<sup>rd</sup> Division  
Stephen Kullmann  
4<sup>th</sup> Division  
Richard Marks  
5<sup>th</sup> Division  
Patrick Higgins

**Humboldt Bay**  
**Harbor, Recreation and Conservation District**  
(707)443-0801  
P.O. Box 1030  
Eureka, California 95502-1030



**STAFF REPORT**  
**HARBOR DISTRICT MEETING**  
**December 10, 2020**

**TO:** Honorable Board President and Harbor District Board Members

**FROM:** Larry Oetker, Executive Director

**DATE:** December 3, 2020

**TITLE:** Extension of Permit No. 14-05 for Invasive *Spartina* Eradication and Native Salt Marsh Restoration.

**STAFF RECOMMENDATION:** Staff recommends that the Board: Approve an extension of Permit 14-05 from December 18, 2020 to December 17, 2021 to allow for continuance of the Humboldt Bay *spartina* eradication program and authorize the Executive Director to review and approve future permit extensions.

**SUMMARY:** In 2014, the District issued Permit 14-05 to itself for the removal of the non-native plant species *Spartina densiflora*. The permit requires an extension in order to be active from December 18, 2020 through December 17, 2021.

**DISCUSSION:** *Spartina densiflora* (“*Spartina*”) is a non-native plant species that has colonized a large proportion of salt marshes in Humboldt Bay. Among other ecosystem impacts, *Spartina* reduces plant biodiversity where it is present. In 2014, the District adopted the Final Humboldt Bay Regional Invasive *Spartina* Eradication Plan and associated Final Programmatic Environmental Impact Report (Resolution No. 2014-14). In 2015, the District obtained a Coastal Development Permit (CDP 1-14-0249) from the California Coastal Commission to implement the program. The CDP was recently extended through June 12, 2025.

On December 18, 2014, the District issued itself Permit 14-05 to implement the *Spartina* eradication program. The permit may be extended annually through December 17, 2025. District staff recommends that the Board approve an extension from December 18, 2020 through December 17, 2021.

**ATTACHMENTS:**

- A. Permit No 2014-04
- B. Permit No 2014-04: 2020-2021 Extension

**HUMBOLDT BAY HARBOR, RECREATION  
AND CONSERVATION DISTRICT**

**PERMIT**

**Permit No. 14-05**

**601 Startare Drive  
Woodley Island Marina  
P O Box 1030  
Eureka, CA 95502-1030**

**Permittee:**

**HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT  
PO Box 1030  
Eureka, CA 95501**

The Board of Commissioners of the **Humboldt Bay Harbor, Recreation and Conservation District**, hereinafter referred to as "**District**", having considered the Application herein, number 14-05, received by the **District** on July 21, 2014, and the District, PO Box 1030, Eureka, California 95501, hereinafter referred to as "**Permittee**", and the **District**, pursuant to the California Environmental Quality Act of 1970, as amended, having made findings for adoption of the Humboldt Bay Regional Invasive Spartina Eradication Plan and associated Final Programmatic Environmental Impact Report (PEIR) through Resolution 2013-04 (April 25, 2013), **District** having on December 18, 2014, passed Resolution No. 2014-14 establishing findings relative to the Application by **Permittee** for control of *Spartina densiflora* and restoration of native salt marshes in Humboldt Bay, California provided for in this Permit, the **Permittee** is hereby authorized to perform the work of improvement, as more particularly described in the Application filed with the **District** and the Final PEIR referred to above.

You are hereby authorized to erect and construct that work of improvement described in the Permit Application of **Permittee** consisting of:

Invasive Spartina eradication and native salt marsh restoration as more particularly described in the Application filed by **Permittee**.

That the location of the proposed work of improvement shall be in salt marshes throughout Humboldt Bay as described in the Application filed by the **Permittee**.

**SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

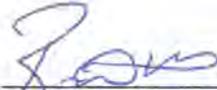
1. That you promptly report the dates when you start and finish the work authorized by this Permit. If you find that you cannot complete the work within the time granted by this Permit, please ask for an extension before your Permit expires. If you materially change the plan and scope of the work, it will be necessary for you to request a revision of your Application and plans.

2. That all work authorized by this Permit shall further be subject to the approval of the following public agencies:
  - A. State of California Coastal Commission
  - B. State of California Regional Water Quality Control Board, North Coast Region

and you shall fully comply with all regulations and conditions affecting such work as imposed by the above agencies.

3. That there shall be no unreasonable interference with navigation by the work herein authorized.
4. That no attempt shall be made by the **Permittee** to interfere or forbid the full and free use by the public of all navigable waters at or adjacent to the work.
5. That the mitigation measures described in the March 21, 2013 Final Programmatic Environmental Impact Report for the Humboldt Bay Regional *Spartina* Eradication Plan are made conditions of this permit by reference.
6. That this Permit, if not previously revoked or specifically extended, shall cease and be null and void and terminate on the 18th day of December 2015. This permit may be extended in annual increments for up to a total of nine (9) years at the discretion of the District.
7. That the Board of Commissioners of the **District** may revoke this Permit at any time upon a finding by the **District** of a violation by the **Permittee** of any condition of this Permit.
8. That the **Permittee** shall comply with any regulations, condition, or instructions affecting the work hereby authorized if and when issued by the Federal Water Pollution Control Administration and/or the State of California Water Resources Control Agency having jurisdiction to abate or prevent water pollution. Such regulations, conditions, or instruction in effect or prescribed by Federal or State Agencies are hereby made a condition of this Permit.
9. That **Permittee** shall furnish to the **Humboldt Bay Harbor, Recreation and Conservation District** a written annual progress report and upon completion, a written completion report describing the completion of the project. **Permittee** shall at all times notify the **Humboldt Bay Harbor, Recreation and Conservation District** in writing of all locations, including new locations, in Humboldt Bay, that **Permittee** proposes to install the uses permitted herein, prior to said installation.
10. That this Permit is valid as of the 18<sup>th</sup> day of December 2014, and is made subject to the **Permittee** approving and agreeing to the conditions above set forth and executing said approval as hereinafter provided.

EXECUTED on this 18<sup>th</sup> day of December 2014, by authority of the Board of Commissioners of the **Humboldt Bay Harbor, Recreation and Conservation District**.



**RICHARD MARKS, President  
Board of Commissioners  
Humboldt Bay Harbor, Recreation and  
Conservation District**

**Humboldt Bay Harbor, Recreation and Conservation District, Permittee,** in the above Permit, hereby accepts and agrees to all of the conditions hereinabove set forth.

Dated: December 18, 2014

HUMBOLDT BAY HARBOR, RECREATION AND  
CONSERVATION DISTRICT

By   
Title Executive Director

**HUMBOLDT BAY HARBOR, RECREATION  
AND CONSERVATION DISTRICT**

**PERMIT EXTENSION**

**Permit No. 14-05 Extension**

**601 Startare Drive  
Woodley Island Marina  
P O Box 1030  
Eureka, CA 95502-1030**

**Permittee:**

**Humboldt Bay Harbor District  
601 Startare Drive  
Eureka, CA 95501**

**Project: Invasive Spartina Eradication and Native Salt Marsh Restoration Project**

The Board of Commissioners of the Humboldt Bay Harbor, Recreation and Conservation District hereby grants an extension from December 18, 2020 through December 17, 2021 for Permit No. 14-05.

EXECUTED on this 10<sup>th</sup> day of December 2020 by authority of the Board of Commissioners of the Humboldt Bay Harbor, Recreation and Conservation District.

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**Stephen Kullmann, President  
Board of Commissioners  
Humboldt Bay Harbor, Recreation and  
Conservation District**

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**Humboldt Bay**  
**Harbor, Recreation and Conservation District**  
(707)443-0801  
P.O. Box 1030  
Eureka, California 95502-1030



**STAFF REPORT**  
**HARBOR DISTRICT MEETING**  
**December 10, 2020**

**TO:** Honorable Board President and Harbor District Board Members

**FROM:** Larry Oetker, Executive Director

**DATE:** December 3, 2020

**TITLE:** Award of Contract to Tenera Environmental Consulting to Develop an Impact Assessment Model for Bay Water Intakes Proposed by the District.

**STAFF RECOMMENDATION:** Staff recommends that the Board: Award a contract to Tenera Environmental Consulting to develop an impact assessment model for bay water intakes proposed by the District for a cost not to exceed \$34,000.

**SUMMARY:** As part of permitting for water intakes that will be used by District tenants on the Samoa Peninsula, there is a need for a model of potential fish larvae impacts. The Commission will consider awarding a contract to Tenera Environmental Consulting to develop the model.

**DISCUSSION:** The District is designing and permitting bay water intakes at the Redwood Marine Terminal II dock and Red Tank Dock. Water from the intakes will be used by current and future tenants for aquaculture and other uses. Staff from the regulatory agencies have indicated the need for a model that estimates mortality of fish larvae that would result from the water intakes. The model results would be used to determine mitigation requirements for the project. Tenera Environmental Consulting is uniquely qualified to conduct this work and provided the District with a proposal and contract (Attachment A). Costs would not exceed \$34,000 and would be reimbursed by future users of the water intakes. District staff recommends that the Board award the contract.

**ATTACHMENTS:**

- A. Tenera Environmental Consulting Proposal**



November 12, 2020

Mr. Adam Wagschal  
Humboldt Bay Harbor  
Recreation and Conservation District  
601 Startare Drive  
Eureka, California 95501

Subject: Proposal to provide an impact assessment model for a proposed intake for aquaculture operations in Humboldt Bay, California – Proposal SLO2020-052

Dear Mr. Wagschal:

Tenera is pleased to provide you and the Humboldt Bay Harbor Recreation and Conservation District with this proposal to complete an impact assessment for a proposed intake for aquaculture operations in Humboldt Bay, California. We understand from our discussions with you that the initial plan for the intake is to provide approximately 10 million gallons per day (MGD) of seawater from the Bay to an aquaculture facility located at the Redwood Marine Terminal II facility on the Samoa Peninsula for a potential land-based aquaculture project (Redwood Marine Terminal Intake). The plan also includes the potential for eventual expansion of the intake volume to 12 MGD to support additional aquaculture operations.

The design and operation of intakes in ocean waters in California are required to minimize effects on marine life due to impingement and entrainment. Impingement of larger organisms occurs when they are trapped against the screening systems commonly used at intake openings and entrainment occurs when smaller organisms pass through the screening system into the facility. As new intakes such as the one proposed for this project can be designed with screens and intake velocities that almost eliminate any effects due to impingement, the impact assessment for this project will focus solely on the effects of entrainment.

## Approach

The impact assessment will use a modeling approach known as the Empirical Transport Model (ETM) (Steinbeck et al. 2007),<sup>1</sup> which has been recommended and approved for permitting previous projects by the California Energy Commission (CEC), California Coastal Commission (CCC), Regional Water Quality Control Boards, and other regulatory and resources agencies. The ETM is the primary method for assessing entrainment effects in California, recognized as the preferred approach for assessing power plant entrainment impact under the California Once-Through Cooling Policy and desalination plant intakes under the Desalination Amendment to the California Ocean Plan. These are both requirements regulated by the State Water Resources Control Board under the California Ocean Plan, that determines NPDES permit requirements in

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<sup>1</sup> Steinbeck, J. R., J. Hedgepeth, P. Raimondi, G. Cailliet, and D. L. Mayer. 2007. Assessing power plant cooling water intake system entrainment impacts. Report to California Energy Commission. CEC-700-2007-010. 105 p.

California. It is also the method recognized by other key California permitting agencies including the California Coastal Commission. The ETM will use physical data on the volume for the Redwood Marine Terminal Intake and the hydrodynamic characteristics of the Bay in the vicinity of the intake, and biological data on some of the common species of fish larvae that might be expected to be entrained by the intake.

The ETM estimates the proportional loss to a standing stock of fish larvae in a source water due to entrainment using an estimate of daily mortality calculated as the ratio of the number of larvae entrained to the number estimated in the source water. The source water is defined as the volume of water from which larvae could be subject to entrainment. Normally, the data required for the calculation of estimates of proportional mortality using the ETM include the volume of the estimated source water for the larvae, feedwater intake volumes, larval concentrations for the intake and source water volumes, and larval durations. However, estimates can also be calculated by assuming that the concentrations of larvae are equal for the intake and source water volumes. In well-mixed systems or in coastal areas with homogenous habitat such as long sandy beach areas found in some areas of southern California this volumetric approach to the ETM has been shown to provide reasonable estimates of entrainment mortality.

## Scope of Work

The scope of work for this project will involve the preparation of an impact assessment on the entrainment effects of the proposed Redwood Marine Terminal Intake using an ETM approach where the daily estimates of entrainment mortality (proportional entrainment or PE) are based on a volumetric ratio of the intake and source water volumes. Based on your recommendation, we discussed the project with Chuck Swanson whose Master's thesis for Humboldt State involved an assessment of water quality in Humboldt Bay. His analysis and assessment of the mass inputs from various sources in the Bay included data on the volumes, tidal prisms, and tidal circulation. These parameter estimates are the data necessary for calculating source water volume estimates for the ETM. Chuck has indicated that he will be available to answer any questions that may arise on the use of the data in his thesis on this project. We have also contacted Dr. Brian Tissot, the director of the Humboldt State Marine Lab on the availability of data on the fish communities in Humboldt Bay. These data will be used to identify candidate species for analysis using the ETM. Our extensive database from studies in embayments in other areas of California will be used to provide estimates of the duration that the larvae of these species might be susceptible to entrainment. These estimates of duration are based on the life history of the species and the maximum lengths of the larvae collected during sampling from other projects we have completed in California.

The data sources identified above will be used to calculate estimates of annual mortality due to entrainment using the ETM at the proposed Redwood Marine Terminal Intake. Tenera has completed numerous intake assessments for projects along the coast in other areas of California. This project is similar to a preliminary modeling study completed for a proposed desalination project in Monterey Bay, California. Therefore, the deliverable for this project would be expected to be similar to the final report prepared for that project and include the following sections:

1. Introduction
2. Environmental Setting
  - 2.1. Physical Setting of Humboldt Bay
  - 2.2. Biological Resources of Humboldt Bay
3. Model and Data Methods
  - 3.1. Empirical Transport Model (ETM)
  - 3.2. Biological Data Used in Modeling
    - 3.2.1. Taxa Selected for Analysis
    - 3.2.2. Larval Duration Calculations
  - 3.3. Humboldt Bay Source Water Body Calculations
    - 3.3.1. Data Sources and Processing
    - 3.3.2. Source Water Volume Calculation
4. Impact Assessment Analysis Results
  - 4.1. Larval Durations
  - 4.2. Larval Seasonality
  - 4.3. Impact Assessment Mortality Estimates
5. Impact Assessment Discussion and Conclusions
6. Literature Cited

The report will form the basis for permitting decisions regarding the intake. If the regulatory authorities eventually require site-specific sampling data on fish larvae from Humboldt Bay the background and source water modeling provided in the analysis and report will provide a solid foundation and reduce costs for any future studies.

We estimate that a draft deliverable for the study can be provided within 90 days of contract award and a notice to proceed.

## Cost Estimate

The budget for the scope of work described above for this project was estimated on a time and materials basis using the Rate Schedule for 2021 included as Attachment C. The total project not-to-exceed cost for the project is estimated at **\$34,000**. A more detailed cost breakdown by labor category can be provided upon request.

## Qualifications

Tenera Environmental, located in San Luis Obispo, California, has been providing a wide range of environmental consulting services since 1975. Our staff includes professional aquatic and terrestrial biologists, fisheries biologists, marine biofouling experts, GIS analysts, biostatisticians, data analysts, hydroacoustic experts, and programmers. Tenera works with clients in a variety of industry and government sectors, including municipal, public, and private utilities, chemical and petroleum industries, and local, state, and federal agencies.

Tenera has established itself as one of the leading experts on environmental issues related to coastal intake and discharge systems including power plant cooling water systems and desalination plant intakes and discharges. We have worked on environmental issues related to power plant intake and discharge systems since our founding in 1975. Since 1996 we have completed impingement mortality and entrainment studies at most of the power plants in California and Hawaii utilizing ocean water for once-through cooling. We have completed studies requiring similar sampling and analysis for several clients involved in permitting and siting desalination facilities, including the Poseidon desalination project in Carlsbad, California, which started operation in 2015 and is the largest desalination plant in the United States. The methods of sampling and analysis developed by Tenera in cooperation with other agency and academic scientists have been adopted by California resource agencies in considering permits for projects using ocean intake systems, such as desalination plants, and for NPDES compliance at coastal power plants using once-through cooling (Steinbeck et al. 2007).

Based on Tenera's extensive project experience described in the previous paragraph, John Steinbeck, the President of Tenera Environmental, served on an expert panel that provided review and comment to the California State Water Resources Control Board staff during the development of their statewide policy for power plant once-through cooling, and later on an expert panel that provided review and comment to the Board staff on development of a statewide policy for desalination plant intake systems. In addition to attending panel meetings, he provided review and comment on drafts of policy documents, and prepared technical reports including a review of desalination plant intake alternatives.

Acceptance of our proposal can be acknowledged by returning a signed copy of the attached Professional Service Agreement (Attachment A) and Scope of Work Agreement (Attachment B).

Sincerely,

A handwritten signature in black ink, appearing to read "John Steinbeck", written in a cursive style.

John Steinbeck  
President

Attachments: A: Professional Services Agreement  
B: Scope of Work Agreement  
C: Rate Schedule

**TENERA Environmental, Inc.  
PROFESSIONAL SERVICES AGREEMENT**

**TENERA Environmental Inc. ("TENERA")**, a California corporation, agrees to perform professional services ("Services") for the undersigned CLIENT as described in Exhibit A "Scope of Work" under the terms and conditions set forth below.

**1. Compensation:** Compensation under this Agreement shall be determined on either a time and materials ("Time and Materials") or fixed price ("Fixed Price") basis, and shall be specified in the Scope of Work.

Under the Time and Materials basis, CLIENT agrees to compensate TENERA Environmental in accordance with TENERA's published rate schedules in effect on the date when the Services are performed. Copies of the schedules in effect as of the date hereof are attached hereto as Exhibit B and are an integral part of this Agreement. TENERA's rate schedules are revised periodically and TENERA will notify CLIENT of any revisions in the rate schedules and the effective date thereof, which date shall be not less than thirty (30) days after such notice. As to those Services for which no specific rates are set forth on TENERA's rate schedules, TENERA shall be compensated on a Time and Materials basis at the rates specified in the Scope of Work.

Under the Fixed Price basis, CLIENT agrees to compensate TENERA in accordance with the amount in the Scope of Work.

**2. Payment:** For Time and Materials based Services, TENERA may submit invoices, in accordance with TENERA's standard format, for work conducted under this Agreement on a monthly basis but is not required to do so. Alternative invoice formatting and documentation may be requested by CLIENT as an additional Service for which TENERA shall be compensated as provided in Section 1. For Fixed Price based Services, TENERA may submit invoices in accordance with the progress billing schedule in the Scope of Work. Payment of invoices in U.S. Dollars is due upon receipt of the invoice. Any invoices due, owing, and unpaid in excess of thirty (30) days after mailing of the invoice, shall bear interest at a rate equal to the lesser of one and one-half percent (1 1/2%) per month or the maximum rate permissible by law.

TENERA reserves the right to require an advance payment prior to the commencement of Services, which advance payment shall be equal to the greater of five thousand dollars (\$5,000) or ten percent (10%) of the estimated total

cost for the Services. Any such advance payment will be specified in the Scope of Work and will be applied against the final billing for such Services.

**3. Term:** Either party may terminate this Agreement upon thirty (30) days written notice with or without cause and in whole or in part; provided, however, that CLIENT shall compensate TENERA for all Services performed prior to TENERA's actual receipt of notice and all of TENERA's costs and expenses incurred prior to and/or as a result of the termination on a Time and Materials basis if the Scope of Work contemplated Time and Materials Services and based on the percentage of Services completed through the termination date, but in any event not less than the sum payable when calculated on a Time and Materials basis, if the Scope of Work originally contemplated Fixed Price Services. Notwithstanding the termination of this Agreement, the provisions of Sections 7, 8, 9, 10, 11, 13, 15 and 17 shall survive and remain in full force and effect.

**4. Taxes, Fees, Licenses and Permits, and Other Charges:** In addition to the Time and Materials or Fixed Price compensation payable to TENERA (unless specifically otherwise provided in the Scope of Work), the CLIENT shall pay (i) all conveyance, transfer and recording fees, if any, imposed on any transfer of or construction on property contemplated by this Agreement and all sales, use, gross receipts, franchise, and personal property transfer taxes, as may be applicable to the transactions contemplated by this Agreement; and (ii) all federal, state, and local fees and assessments associated with the Services, including but not limited to license and permit fees.

Unless specifically otherwise provided in the Scope of Work, CLIENT shall bear sole responsibility for obtaining all licenses and permits necessary to carry out the Services provided by TENERA.

**5. Independent Contractor:** TENERA shall be an independent contractor in performing the Services and shall not act as an agent or employee of CLIENT. The employees of TENERA and its subcontractors are not employees of CLIENT within the meaning or application of any federal or state unemployment insurance laws, or other social security law or any worker's compensation, industrial accident law or other industrial or labor law.

**6. Other Contractors and Activities:** The presence of

TENERA personnel, either full-time or part-time, at the CLIENT's facility or site may be for the purpose of providing project administration, assessment, observation and/or field testing of specific aspects of the project as authorized by CLIENT. Unless specifically agreed to in the Scope of Work, should a contractor not retained by TENERA be involved in the project, CLIENT will advise such contractor that TENERA's services do not include supervision or direction of the actual work of such contractor, its employees or agents. CLIENT will also inform such contractor that the presence of TENERA field representatives for project administration, assessment, observation or testing will not relieve the contractor of its responsibilities for performing the work in accordance with the plans and specifications. If a contractor (not a subcontractor of TENERA Environmental) is involved in the project, CLIENT agrees, in accordance with generally accepted construction practices, that such contractor will be solely and completely responsible for working conditions at the jobsite, including safety of all persons and property during performance of the work, and compliance with OSHA regulations. These requirements will apply continuously and will not be limited to normal working hours. It is agreed that TENERA will not be responsible for job or site safety on the project, other than for its employees and subcontractors, and the TENERA does not have the duty or right to stop the work of another contractor.

**7. Maintenance of Records:** CLIENT shall have the right, at its expense, to inspect and audit TENERA's records and accounts concerning costs hereunder, upon prior written request, during normal business hours during the course of the Services and for a period of one (1) year after the substantial completion thereof; provided, however, that the purpose of such audit shall be only for verification of such costs and that TENERA shall not be required to keep records of or provide access to information concerning costs for any Fixed Price Services.

Upon completion of such audit, the results shall be presented to TENERA Environmental. To the extent that the audit indicates that TENERA has not been adequately compensated by CLIENT, CLIENT shall immediately pay TENERA any compensation due as shown by the audit. Alternatively, to the extent that any audit indicates that the total amount of compensation paid by CLIENT to TENERA exceeded the actual amount due, TENERA shall immediately return such excess compensation to CLIENT.

**8. Warranties and Remedies:** *Subject to the limitations of this Section and Sections 9, 10, and 11 hereof:*

**Warranties:** TENERA warrants for a period of ninety

(90) days from completion of the Services (the "Warranty Period") that the Services will be free from defects in materials and workmanship consistent with (1) accepted professional practices and standards for nationally recognized firms engaged in similar work, as in effect at the time the Services are performed, (2) CLIENT's reasonable standards and specifications as communicated in writing to TENERA prior to beginning the Services, and (3) material compliance with applicable federal, state and local laws, regulations and ordinances as in effect and construed at the time the Services are performed.

**Remedies:** If CLIENT alleges that TENERA has breached a warranty set forth in this Section, then CLIENT shall promptly notify TENERA in writing on or before the expiration of the Warranty Period and before taking any further action against TENERA Environmental, shall afford TENERA the opportunity to commence and diligently pursue the cure of such breach by reperforming the Services determined to be defective or, in TENERA's sole discretion, by refunding that portion of the compensation paid to TENERA for such defective Services, in which event such cure shall be CLIENT's sole and exclusive remedy therefore.

If CLIENT has breached a warranty set forth in this Section, TENERA shall be entitled to recover from CLIENT all losses and related expenses (including but not limited to reasonable legal fees, costs of investigation, and incidental and consequential damages) arising from such breach.

EXCEPT AS SET FORTH IN THIS SECTION, TENERA AND CLIENT MAKE NO WARRANTY, EXPRESS OR IMPLIED, IN FACT OR BY LAW, WHETHER OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE, AS TO ANY OF THE GOODS OR OTHER MATERIALS FURNISHED OR SERVICES WHICH MAY BE PERFORMED PURSUANT TO THIS AGREEMENT.

**9. Indemnity:**

**Indemnity by TENERA Environmental:** Subject to the limitations of Sections 8, 10, and 11 hereof, TENERA shall defend, indemnify and hold harmless, CLIENT (including its officers, directors, employees, and agents) from and against any and all losses, liabilities, claims, demands, damages, fines and penalties, and related expenses (including reasonable legal fees and costs of investigation), with respect to injury or death of any person (including employees and agents of CLIENTS and TENERA Environmental) or damage, loss or destruction

of any tangible property (including property of CLIENT and TENERA and their respective employees and agents), to the extent resulting from, attributable to, or arising out of TENERA's gross negligence or willful misconduct in performing Services.

**Indemnity by CLIENT:** Subject to the limitations of Sections 8, 10 and 11 hereof, (1) any indemnity by TENERA shall not apply to, and (2) CLIENT shall defend, indemnify, and hold harmless TENERA (including its officers, directors, employees, and agents) from and against, any and all liabilities, claims, demands, losses, damages, fines and penalties, and related expenses (including but not limited to legal fees and reasonable costs of investigation), to the extent resulting from, attributable to, or arising out of: (a) any negligence or willful misconduct of CLIENT or compliance by TENERA with directives issued by CLIENT; (b) any delay attributable to CLIENT's conduct; and (c) any action or inaction of any other contractor, subcontractor, independent contractor or agent of CLIENT or other person for whom CLIENT is legally liable; (d) any breach by CLIENT of any warranties or other provisions hereof.

**10. Notice of Claim:** A party entitled to indemnity under Section 9 hereof shall be the "Indemnitee" and the party obligated to provide such indemnity shall be the "Indemnitor." The Indemnitee shall promptly provide written notice to the Indemnitor upon any assertion of any Claim (as hereafter defined) falling within the Indemnitor's duties to indemnify. In the event an Indemnitor is required, during the course of an action or other proceeding, to pay any sum pursuant to Section 9 hereof which results from, is attributable to or arises out of any cause other than one for which the Indemnitor is required to defend, indemnify or hold harmless, the Indemnitor shall be entitled to recover such sums from the Indemnitee and others to the extent such sums are in excess of those sums which the Indemnitor is required to pay pursuant to Section 9, as the case may be.

Failure to provide written notice of a claim as specified above shall result in a waiver of indemnification and waiver of defenses by the failing party.

**11. Limitation of Liability:** Notwithstanding any other provision contained in this Agreement:

**a.** In no event shall TENERA be responsible for any incidental, indirect, impact, or consequential losses, damages (including loss of profits), liabilities or expenses incurred by CLIENT or any third party as a result of TENERA's performance or nonperformance of this Agreement or by application or use of reports prepared or

other Services performed; and

**b.** For all losses, damages, liabilities or expenses (including but not limited to attorney's fees and costs), whether for indemnity, or negligence, including errors, omissions or other acts, or willful misconduct, or based in contract, warranty (including any costs and fees for repairing, replacing or re-performing Services), or for any other cause of action (individually, a "Claim"; collectively, "Claims"), TENERA's liability, including the liability of its employees, agents, directors, and officers and all other persons for whom TENERA is legally responsible, shall not, to the maximum extent permitted by law, exceed in the cumulative aggregate with respect to all Claims arising out of or related to this Agreement, the greater of (i) the total amount of compensation paid to TENERA under that portion of the Scope of Work pursuant to which the claim arose, or One Hundred Thousand Dollars (\$100,000) whichever is less, or (ii) the amounts of any applicable insurance paid by TENERA's insurer to CLIENT on TENERA's behalf; and

**c.** All Claims against TENERA Environmental, its employees, agents, directors or officers and all other persons for whom TENERA is legally liable, shall be deemed irrevocably waived unless and to the extent CLIENT shall have provided proper notice pursuant to Section 8 and/or 9 hereof and shall bring suit therefor against TENERA within one (1) year after TENERA's substantial completion of the particular Services with respect to which the Claim is made.

**12. Site Operations:** TENERA will take reasonable precautions to minimize damage to the property of CLIENT caused by its operations. Unless otherwise stated in the Scope of Work, TENERA's fee does not include cost of restoration due to any related damage which may result. If CLIENT requests TENERA to repair such damage, TENERA will do so at an additional cost.

**13. Documents:** TENERA will furnish CLIENT the agreed upon number of reports and supporting documents as described in the Scope of Work. These instruments of services are furnished for CLIENT's exclusive internal use and reliance in connection with the project or Services provided for in this Agreement, and shall not be used for advertising or other type of distribution or general publication by CLIENT. For any other purpose, all documents generated by TENERA under this Agreement shall remain the sole property of TENERA Environmental. CLIENT agrees to obtain TENERA's written permission for any exception for use not described herein. Any unauthorized use or distribution shall be at CLIENT's and recipient's sole risk, with TENERA incurring no liability

for such unauthorized use or distribution.

**14. Insurance:** Upon written request, TENERA shall furnish to CLIENT insurance certificates evidencing the following insurance coverage:

**Workers' Compensation,** providing statutory benefits and employer's liability insurance covering employees of TENERA engaged in operations hereunder in compliance with the law in the state having jurisdiction over each employee.

**Commercial General Liability Insurance** including products, personal injury, contractual and automobile liability with combined single limits per occurrence of One Million Dollars (\$1,000,000) for bodily injury and property damage. Such policy shall be endorsed to cover liability of TENERA under and to the extent provided in this Agreement, and automobile liability insurance shall include non-owned and hired vehicle coverage.

In the event CLIENT requires additional insurance coverage beyond that described above, TENERA will use its best efforts to obtain the coverage; provided, CLIENT shall pay any additional costs and premiums associated with obtaining any such additional coverage. The certificates shall specify the dates when such insurance expires and shall provide further that CLIENT shall be given not less than thirty (30) days' written notice before cancellation of or any material change in such insurance. Such insurance shall be on a claims-made basis. TENERA and its insurer(s) hereby reserve all rights of subrogation.

**15. Intellectual Property Rights:** CLIENT shall retain all right, title and interest in and to all intellectual property, including patents, copyrights, trademarks, trade secrets and confidential know-how (collectively, "Intellectual Property") which is developed or acquired by CLIENT.

TENERA shall retain all right, title and interest in and to all Intellectual Property of TENERA existing at the time the Services are commenced or thereafter developed or acquired by TENERA Environmental, including any Intellectual Property developed in connection with the performance of the Services. TENERA hereby grants CLIENT a royalty-free, nonexclusive, nontransferable license as to that portion of its Intellectual Property which is developed by TENERA in connection with the performance of the Services for use in CLIENT's facilities.

TENERA shall use its best efforts to provide Services that do not infringe on any valid Intellectual Property or involve the use of any confidential information that is the property of others unless TENERA is licensed or

otherwise has the right to use such Intellectual Property or confidential information. TENERA shall also use its best efforts to inform CLIENT of any infringement upon any Intellectual Property that may be reasonably expected to result from the use of the Services; provided, however, that the best efforts of TENERA shall not include a duty to conduct and/or prepare a copyright, trademark or patent search and/or opinion.

In the event the Services are held to infringe the Intellectual Property of a third party, TENERA Environmental, at its option, may elect (1) to procure for CLIENT, at TENERA's cost, the right to continue to use such Services or the results thereof or (2) replace, modify or reperform the Services to the extent necessary to avoid the infringement or (3) to refund the compensation paid to TENERA for such Services in full satisfaction of any claim by CLIENT with respect thereto. In any legal proceeding where CLIENT is made a defendant for Intellectual Property infringement based upon a Service, the liability of TENERA under this Agreement shall be as limited in Sections 8, 9, 10 and 11 hereof.

Notwithstanding the foregoing, in no event shall TENERA incur any liability for infringement based on CLIENT's operating processes or for infringement resulting from TENERA's compliance with CLIENT's directions.

**16. Technology Fees:** In the event the Services require the application of certain of TENERA's Intellectual Property, TENERA shall (a) identify the applicability of technology fees for the utilization of such Intellectual Property prior to or during the process definition phase of a project and (b) define for CLIENT the technical and economic factors associated with application of such technology. If CLIENT elects to proceed with evaluation or application of TENERA's Intellectual Property, CLIENT and TENERA shall negotiate in good faith, and establish in writing, the appropriate technology fees and payment schedules. If CLIENT elects not to proceed with the evaluation or application of TENERA's Intellectual Property or CLIENT and TENERA fail to establish such technology fees and payment schedules, TENERA shall be excused from further performance of such Services, the Agreement shall be deemed terminated and CLIENT shall pay for all Services performed through the date of termination as set forth in Section 3 hereof.

**17. Confidentiality:** CLIENT and TENERA acknowledge that either party may disclose both commercial and technical proprietary, trade secret or confidential information ("Confidential Information") to the other party prior to, during and/or subsequent to the engagement of TENERA's services under this Agreement. CLIENT and

TENERA agree that each has an obligation not to disclose to third parties such confidential information. The terms and condition of this document, all pricing and proposal information supplied by TENERA Environmental, and TENERA's investigative methodologies and protocols are considered confidential by TENERA Environmental. Confidential Information shall not include information which is (a) generally available to the public, (b) lawfully in a party's possession prior to the date of disclosure by the other party, or (c) received from a third party who has no obligation of non-disclosure and is lawfully in possession of the information or required to be disclosed pursuant to any regulations of government agencies. The foregoing notwithstanding, to the extent TENERA or CLIENT is required by applicable federal, state or local statute, regulation or ordinance to disclose or report to third parties information developed or discovered by TENERA in the course of performing Services hereunder, each party shall be free to do so without hindrance or restraint regarding the confidentiality of such specific information.

**18. Force Majeure:** Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations (other than the payment of money) results, without its fault or negligence, from any cause beyond its reasonable control, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods, adverse weather conditions, strikes, or lockouts, acts of governmental agencies or officials, and/or changes in laws, statutes, regulations or ordinances.

If any such force majeure condition occurs and will materially delay or impair performance hereunder, then the party whose performance is delayed or impaired by such condition shall give prompt written notice to the other party as to the nature and anticipated extent of the delay or impairment. The party receiving said notice may then elect to either (a) terminate the affected Service or any part thereof or (b) suspend the affected Service or any part thereof for the duration of the force majeure condition and resume performance once the force majeure condition ceases. Unless written notice electing option (a) under this Section is given within three (3) days after receipt of notification of the force majeure condition, then option (b) shall be deemed to have been elected.

**19. Notice:** Any notice, communication, or statement required or permitted to be given hereunder shall be in writing and deemed to have been sufficiently given when delivered in person or delivered by telex, wire, facsimile (with confirmation of facsimile transmission) or by certified mail, return receipt required, postage prepaid, to the address and persons designated in the Scope of Work

or to such other address and persons for either party as that party may by written notice designate.

**20. Assignment:** Neither party shall assign, subcontract, or delegate any of its duties or obligations under this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld. Further, TENERA may, upon notice to CLIENT, assign, pledge or otherwise hypothecate the cash proceeds and accounts receivable resulting from the performance of any Services or sale of any goods pursuant to this Agreement. Notwithstanding the above, TENERA shall have the right, without obtaining any consent of CLIENT, to assign, transfer or subcontract any portion of this Agreement to any entity controlled by, under common control with or controlling TENERA Environmental.

**21. Attorney Fees:** In the event either party shall be successful in any action (a) alleging breach of this Agreement; (b) to construe or enforce the terms and conditions of this Agreement, including nonpayment of invoices; or (c) to enjoin the other party from violating any term or condition of this Agreement, the prevailing party shall, to the maximum extent permitted by law, be entitled to recover its reasonable legal fees, costs, and expenses in bringing and maintaining such action.

**22. Applicable Law:** This Agreement shall be governed by and construed in accordance with the laws of the state where the Services are to be performed.

**23. Waiver of Terms and Conditions:** The failure of either TENERA or CLIENT in any one or more instances to enforce one or more of the terms or conditions of this Agreement or to exercise any right or privilege in this Agreement or the waiver by TENERA or CLIENT of any breach of the terms or conditions of this Agreement shall not be construed as thereafter waiving any such terms, conditions, rights, or privileges, and the same shall continue and remain in force and effect as if no such failure to enforce had occurred.

**24. Entire Agreement:** The terms and conditions set forth herein constitute the entire understanding of the parties relating to the provision of Services by TENERA to CLIENT, supersedes all prior oral or written agreements (if any) between the parties and shall be deemed incorporated in the Scope of Work and other authorizations unless otherwise so stated therein. Should any provision(s) of the Scope of Work contradict any provision(s) of this Agreement, the provision(s) of this Agreement shall prevail unless the Scope of Work specifically identifies the contradiction and the controlling document and is executed by both parties. This Agreement

may be amended only by a written instrument signed by both parties.

**25. Severability:** Every part, term or provision of this Agreement is severable from others. Notwithstanding any possible future finding by a duly constituted authority that a particular part, term or provision of this Agreement is invalid, void or unenforceable, the validity and enforceability of the remaining parts, terms and provisions shall not be affected thereby. The terms and conditions set forth herein shall survive the termination of -this Agreement.

IN WITNESS WHEREOF, CLIENT and TENERA Environmental Inc. have caused this Agreement to be executed by their respective duly authorized representatives as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
CLIENT

\_\_\_\_\_  
By

\_\_\_\_\_  
Title

TENERA Environmental

\_\_\_\_\_  
By

\_\_\_\_\_  
Title

**SCOPE OF WORK AGREEMENT**

*Professional Services Agreement dated Nov. 13, 2020 between TENERA Environmental and the Humboldt Bay Humboldt Bay Harbor Recreation and Conservation District*

**Scope of Services:**

Preparation of an impact assessment for a proposed intake for aquaculture operations in Humboldt Bay, California. The impact assessment will use a modeling approach using physical data on the volume for the intake and the hydrodynamic characteristics of the Bay in the vicinity of the intake, and biological data on some of the common species of fish larvae that might be expected to be entrained by the intake. The modeling approach will be based on the Empirical Transport Model (ETM) which is the approach recommended and approved for permitting previous projects by the California Energy Commission (CEC), California Coastal Commission (CCC), Regional Water Quality Control Boards, and other regulatory and resources agencies.

**Task Value:**

Estimated time-and-materials cost of **\$34,000** based on 2021 labor rates provided in the Tenera Rate Schedule (Attachment C).

**Terms and Conditions:**

As set forth in the Professional Services Agreement.

Client:	_____	_____ TENERA Environmental _____
By:	_____	_____
Title:	_____	_____
Date:	_____	_____

## Tenera Environmental Inc.

### Rate Schedule for Labor and Reimbursable Expenses

Job Category	2021			2022		
	Normal Hourly Rate	On-Water Rate	Diving Rate	Normal Hourly Rate	On-Water Rate	Diving Rate
Director	229.15	274.99	320.82	232.00	255.20	324.80
Principal Investigator	201.57	241.89	282.20	205.00	225.50	287.00
Project Scientist/Manager	175.05	210.06	245.07	178.00	195.80	249.20
Senior Scientist	152.24	182.69	213.14	155.00	170.50	217.00
Scientist	115.42	138.51	161.59	117.50	129.25	164.50
Senior Data Analyst	115.42	138.51	161.59	117.50	129.25	164.50
Senior Research Assistant	95.80	114.96	134.12	97.50	107.25	136.50
Research Assistant II	76.07	91.28	106.49	77.50	85.25	108.50
Research Assistant I	64.61	77.53	90.46	66.00	72.60	92.40
Technical Editor	165.50			168.00		

### Labor Rates

The on-water hourly labor rates apply to all work conducted on or over the water. This includes all works on docks and any work on boats whether at a dock, underway, or anchored. The diving hourly labor rates apply to all work conducted in the water using SCUBA or other breathing apparatus.

For all non-exempt employees overtime hours exceeding eight hours within any 24-hour period will be billed at one and one-half times the normal hourly rate and overtime hours exceeding twelve hours within any 24-hour period will be billed at two times the normal hourly rate. Overtime work on a project will be approved by the client in advance.

The labor rates for 2022 are estimated and are subject to change prior to the initiation of any work in that year.

### Travel Expenses

**Per Diem Expenses:** Per diem travel expenses apply to all travel beyond a 30-mile radius from the Tenera San Luis Obispo offices. Actual travel expenses will be billed using per diem limits for the calendar year published by the U.S. General Services Administration at [www.gsa.gov](http://www.gsa.gov). Per diem expenses will be subject to a 10% markup for G&A.

**Personal Vehicle Use:** Use of personal vehicles for travel will be billed at the Federal mileage rate for the calendar year published by the U.S. General Services Administration at

[www.gsa.gov](http://www.gsa.gov). The current rate effective January 2020 is \$0.575 per mile. Personal vehicle use will be subject to a 10% markup for G&A.

*Tenera Vehicle Use:* Tenera vehicles used for travel will be billed at a lease rate of \$98 per day and \$0.38 per mile to cover fuel costs. No markup for G&A will be applied to lease rate.

*Other Reimbursable Travel Expenses:* Other travel expenses will be subject to a 10% markup for G&A and will be billed with backup of the expenses provided with the invoice.

## Other Reimbursable Expenses

Other reimbursable expenses will be subject to a 10% markup for G&A. These expenses may include, but not be limited to, necessary printing, drawing reproduction, shipping charges, equipment rentals, necessary field and laboratory supplies, and testing and laboratory services.

*Sample Collection, Handling, Storage, and Disposal Fee:* A fee of \$65 will be charged for each sample (plankton, benthos, sediment, etc.) collected. This fee is for the storage, handling, and maintenance of the sample for a period of three years following collection, and any additional preservative that may need to be added during storage. The fee does not include charges for the sample container and preservative used during collection. If storage is required for a longer period additional charges may be added. The fee is not subject to G&A markup. The fee will increase to \$68 per sample in 2022. A 50% discount to the per sample fee will be applied to all samples not requiring storage for three years.

## Reimbursable Office Expenses

Photocopies will be charged at \$0.10 per black & white and \$0.35 per color copy. Facsimiles will be charged at a rate of \$0.50 per page. No markup will be applied to photocopy or facsimile costs. Other reimbursable office expenses will be subject to a 10% markup for G&A.

## Subcontractors

Invoices from subcontractor will include a 10% markup for G&A.

## Equipment Charges

Use of Tenera Environmental equipment will be billed at the per diem rates presented in the table. Tenera reserves the right to adjust package and equipment costs according to project requirements following client approval. Daily Rates are quoted below, but discounts may be applied for longer lease periods. No markup will be applied to lease costs.

Equipment List	Daily Rate	Equipment List	Daily Rate
Boats		Equipment (continued)	
Inflatable w 15 hp	\$300.00	Video Camera w/ underwater housing	\$100.00
Electric Trolling Motor	\$50.00	Video Camera	\$30.00
Kayak	\$75.00	Video Camera - GoPro	\$30.00
9' skiff	\$200.00	Digital Camera	\$20.00
14' Whaler	\$400.00	Digital Camera w/ underwater housing	\$50.00
23' Pontoon Boat	\$1,000.00	Drop Video /still camera	\$75.00
standby day or travel day	\$500.00	Imagenex side-scan sonar	\$200.00
25' Research Vessel	\$1,500.00	Nortek ADCP	\$300.00
standby day or travel day	\$750.00	Sontek ADCP	\$300.00
		BioSonics split-beam echosounder	\$300.00
Software Systems		Turner Fluorometer	\$300.00
Microscope measuring system	\$100.00	Dye injection box	\$250.00
ArcGIS Software (\$12.50/hr)	\$100.00	trash pumps w/ flowmeter	\$75.00
SAS Statistical Software (\$12.50/hr)	\$100.00	shop lights for sampling	\$25.00
		cell phone	\$10.00
Special Project Packages (boats extra)		marine radio - handheld	\$10.00
Bathymetry Survey Package	\$850.00	Cobra walkie talkies or similar	\$10.00
Sidescan Survey Package	\$850.00	laptop computer	\$50.00
Sidescan+Bathymetry package	\$1,050.00	desktop computer	\$50.00
Thermal Plume Package	\$560.00	video projector	\$50.00
Intake ADCP Package (inc. mounts)	\$450.00	SeaDoo Dive Scooter	\$75.00
Temperature Drifters - 3 units+GPS	\$100.00	Acoustic Tag locator	\$75.00
		YSI Castaway CTD	\$200.00
Equipment		OBS NTU Instrument	\$100.00
Garmin or other handheld GPS	\$25.00	Pacer 4-channel temperature unit	\$50.00
Trimble GPS	\$150.00	Pacer light sensor	\$50.00
JRC GPS	\$50.00	KPSI real-time pressure transducer	\$50.00
Sokkia GPS w/ Waypoint	\$300.00	Hugrun temperature units	\$20.00
Marconi GPS w/ Waypoint	\$300.00	Temperature Recorders	\$10.00
Beach Sled for GPS	\$100.00	Onset temperature/depth units	\$50.00
Wheeled Mount for GPS System	\$30.00	YSI Temperature/DO instrument	\$25.00
LowRance or similar fathometer	\$50.00	pH meter	\$25.00
Bongo frame nets w/ flowmeters	\$150.00	Vernier pressure sensor	\$10.00
Single net w/flowmeter	\$75.00	Vernier temperature probe	\$10.00
Laser Rangefinder	\$50.00	Onset pressure/water-level sensor	\$20.00
trawl nets	\$100.00	Onset SS temperature units	\$20.00
sediment corer	\$50.00	Refractometer	\$10.00
Ponar grab	\$25.00	Hand-held Temperature Probe	\$10.00
YSI water quality sensor	\$50.00	DC/AC Power inverter	\$10.00
YSI DO Sensor	\$50.00	120 Volt Generator	\$100.00
Multiparameter water quality sensor	\$100.00	Inclinometer	\$100.00

COMMISSIONERS

1<sup>st</sup> Division

Larry Doss

2<sup>nd</sup> Division

Greg Dale

3<sup>rd</sup> Division

Stephen Kullmann

4<sup>th</sup> Division

Richard Marks

5<sup>th</sup> Division

Patrick Higgins

**Humboldt Bay**  
**Harbor, Recreation and Conservation District**  
(707) 443-0801  
P.O. Box 1030  
Eureka, California 95502-1030



**STAFF REPORT**  
**HARBOR DISTRICT MEETING**  
**December 10, 2020**

**TO:** Honorable Board President and Harbor District Board Members

**FROM:** Larry Oetker, Executive Director

**DATE:** December 4, 2020

**TITLE:** Receive a Report of the Historic Shipping Volumes from Humboldt Bay

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**STAFF RECOMMENDATION:** Staff recommends that the Board: Receive a report from Staff.

**SUMMARY:** Staff has collected a log of all the shipping from Humboldt Bay from 2000 to present. Staff will provide a summary report of the historic ship traffic and projections for future years. The ship tonnage is utilized to calculate the Harbor Usage Fees which are utilized to help pay off the debt incurred by the Harbor deepening project.

**DISCUSSION:** NONE

**ATTACHMENTS:** NONE

COMMISSIONERS

1<sup>st</sup> Division

Larry Doss

2<sup>nd</sup> Division

Greg Dale

3<sup>rd</sup> Division

Stephen Kullmann

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**STAFF REPORT**  
**HARBOR DISTRICT MEETING**  
**December 10, 2020**

**TO:** Honorable Board President and Harbor District Board Members

**FROM:** Larry Oetker, Executive Director

**DATE:** December 4, 2020

**TITLE: Review of the Report to the Legislature 2020 Regarding the “Assessment of the North Coast Railroad Authority and Viability of a Great Redwood Trail”**

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**STAFF RECOMMENDATION:** Staff recommends that the Board: Review the assessment and provide direction to staff as may be appropriate.

**SUMMARY:** The North Coast Railroad Authority Closure and Transition to Trails Act was approved in September 2018. The Act directs the California State Transportation Agency, in consultation with the Natural Resources Agency, to “conduct an assessment of the North Coast Railroad Authority to provide information necessary to determine the most appropriate way to dissolve North Coast Railroad Authority and dispense with its assets and liabilities,” as well as “a preliminary assessment of the viability of constructing a trail on the entirety of, or a portion of, the property, rights-of-way, or easements owned by North Coast Railroad Authority, and recommendations relating to the possible construction of a trail.”

**DISCUSSION:** The purpose of this item is to introduce the Assessment Report to the Board. The Board may choose to appoint a subcommittee to further review and provide a recommendation and or comments to the Legislature. Section 4 of Appendix II of the Harbor and Navigation Code specifies that the powers and authority of the District are: “A district for the acquisition, construction, maintenance, operation, development and regulation of harbor works and improvements, including rail, water and air terminal facilities,.....”

The attached report to the Legislature outlines the following areas of concern:

- Financial Assessment
- Successor Agency Governance Options

- Property Assessment
- Rail-Trail Constructability
- Railbanking Assessment
- Freight Rights in the Southern Section

Five scenarios were considered include:

Scenario 1: NCRA is dissolved, and its right-of-way is liquidated

Scenario 2: NCRA is dissolved, and its right-of-way is converted to a trail

Scenario 3: NCRA is not dissolved, and its mission is amended

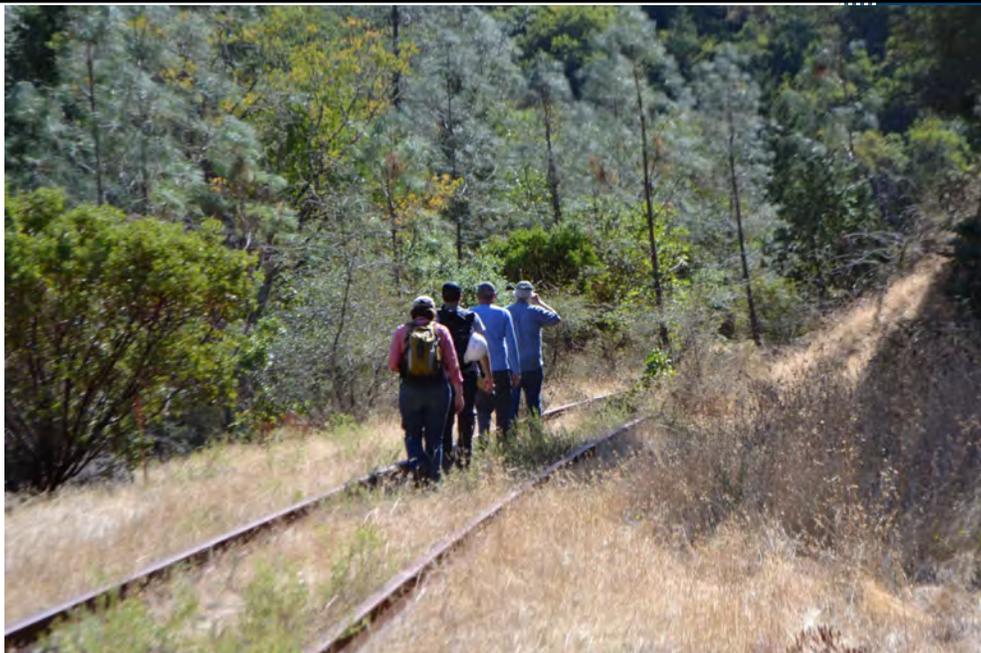
Scenario 4: NCRA maintains *status quo*.

Scenario 5: A new railroad company buys out NCRA

**ATTACHMENTS:**

- A. 2020 Report to the Legislature: Assessment of the North Coast Railroad Authority and Viability of a Great Redwood Trail**

# Assessment of the North Coast Railroad Authority and Viability of a Great Redwood Trail



Report to the Legislature  
2020



State of California  
Department of Finance



California  
Department of  
Parks and Recreation



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## EXECUTIVE SUMMARY

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North Coast Railroad Authority (NCRA) was created in 1989 to maintain and operate freight rail service between the Bay Area and Humboldt Bay. Declining industry revenue, deferred maintenance, and catastrophic storm damage shut down rail operations north of Windsor, Sonoma County, in 1998. Operations south of Windsor resumed in 2011, and NCRA continued to strive to resume rail service in the north, only to fall deeper into debt each year. (Please see the map in Figure 1 for project locations.)

Senator Mike McGuire introduced the North Coast Railroad Authority Closure and Transition to Trails Act (SB 1029, Chapter 934 Statutes of 2018), which was signed into law by former Governor Edmund G. Brown Jr. in September 2018. The Act directs the California State Transportation Agency (CalSTA), in consultation with the Natural Resources Agency, to “conduct an assessment of the North Coast Railroad Authority to provide information necessary to determine the most appropriate way to dissolve North Coast Railroad Authority and dispense with its assets and liabilities,” as well as “a preliminary assessment of the viability of constructing a trail on the entirety of, or a portion of, the property, rights-of-way, or easements owned by North Coast Railroad Authority, and recommendations relating to the possible construction of a trail.” Finally, the statute requires “an assessment of the options for transferring the southern portion of the rail corridor to the Sonoma-Marin Area Rail Transit District and recommendations on the specific assets and liabilities that could be transferred, including rights or abilities to operate freight rail.” See page 12 and Appendix A for additional detail.

CalSTA convened a multi-agency SB 1029 Task Force (Task Force) comprised of representatives from the California Department of Transportation (Caltrans), the Natural Resources Agency, the Department of Parks and Recreation (State Parks), the Department of Finance, and the Department of General Services (DGS). The Task Force agencies conducted independent studies in their respective areas of expertise and prepared individual assessment reports focused on their findings, included as Appendices C, D, and E. These appendices are available on the CalSTA website at: <https://calsta.ca.gov/subject-areas/reports>.



Figure 1. Current Ownership Map of the Historic Northwestern Pacific Rail Line

## Report Organization

This report is presented in sections defined by the areas of concern described in SB 1029 and are an assimilation of findings from all Task Force assessment reports, which examined NCRA and the proposed Great Redwood Trail from unique perspectives.

Areas of concern discussed in this report include:

- Financial Assessment
- Successor Agency Governance Options
- Property Assessment
- Rail-Trail Constructability
- Railbanking Assessment
- Freight Rights in the Southern Section

## Key Findings

The following items were identified during the assessment and have been highlighted here as significant considerations for the proposed dissolution of NCRA and development of a Great Redwood Trail.

### Financial Assessment

The financial assessment was conducted by the Department of Finance, Office of State Audits and Evaluations (OSAE). Additional detail can be found starting on page 20 and in the full OSAE report (Appendix C).

Value of Assets - NCRA has a calculated value of net assets of (-) \$7.2 million as of December 31, 2019.

Outstanding Debt - As of December 31, 2019, total known liabilities were \$7.4 million. In addition, contingent liabilities are estimated to total at least \$11 million, but many are unknown and could total additional millions of dollars. (See Appendix C for more detail.)

Contingent Liabilities - This assessment identified contingent liabilities with unknown but potentially significant costs that must be factored into any dissolution plan for NCRA. These include but are not limited to: staff pensions; unidentified environmental contamination; removal of abandoned rail equipment in the Eel River; levee repairs; stabilization or removal of structures; and possible future litigation.

### Property Assessment

The property assessment was conducted by OSAE, DGS, and State Parks. Their findings are discussed in detail beginning on page 29 and in the agency's individual reports (see Appendices C, D, and E).

Pro Rata Share of Proceeds - NCRA's property, rights-of-way, and easements were purchased with state and federal funds totaling \$141 million. In accordance with governing law, Funds Transfer Agreements between the State of California (State) and NCRA require that all rights-of-way and other property acquired with public funding must remain dedicated to public transportation uses *in perpetuity*. If property or equipment are declared excess, disposed of, or taken out of public transportation use, the State and Federal Highway Administration have options, including: taking title to the property; directing its *pro rata* share to other eligible public transportation projects (pending CTC approval for state funds); or requiring proceeds from the fair market sale be returned or credited to the State, in the proportionate funding participation by State and other non-recipient generated public funds. For the right-of-way from Willits, Mendocino County, to Humboldt Bay the proportionate share is 100-percent state funds, and Willits to Healdsburg, in Sonoma County, is 10-percent state, 90-percent federal. On a recent right-of-way sale in Ukiah, Mendocino County, NCRA retained the 90-percent federal share of proceeds. Additional study would be needed to determine if proceeds from liquidation would be enough to satisfy the outstanding debt while also allowing state and federal programs to recoup their investments.

Licenses and Permits - As an "active" railroad, NCRA is governed and regulated by the federal Surface Transportation Board (STB), the Federal Railroad Administration, the California Public Utilities Commission, and various resource-permitting agencies. For the rail line north of the Sonoma-Mendocino county line to be dismantled, all three government agencies must be consulted and involved in the process.

Title Searches, Reversionary Clauses, and Liens - Liquidation of the corridor will require a detailed examination of individual title reports. This assessment has identified more than 2,800 parcels that will need to be reviewed on a case-by-case basis for reversionary clauses and possible liens prior to disposition for a non-rail use.

Lease Agreements and Encroachments - Existing lease agreements must be assessed individually based on the underlying property status. These vary in conditions and length of the term.

### [Railbanking Assessment](#)

The railbanking assessment was conducted by State Parks and is described in detail starting on page 24 and in Part II of Appendix D.

Legal Process - Railbanking is a legal process administered by the STB by which unprofitable or unused rail corridors can be converted to trails for recreational or transportation purposes. The process begins when a railroad company files legal notice it plans to abandon the line and a trail manager files a request to railbank it within 30 days. Due to the short timeframe a trail manager should to be identified prior to abandonment. Another railroad company could disrupt the railbanking process if it wishes to use the railroad corridor for trains.

Future Railroad – Railbanking preserves the corridor for future railroad use.

Reversionary Clauses – These clauses are commonly found in railroad easements and return ownership of abandoned railroad property to underlying property owners. These are generally not triggered by railbanking (which is a “rail” use) but must be reviewed on a case-by-case basis due to variations in language.

### [Successor Agency Governance Options](#)

Six typical trail management governance structures were analyzed for potential trail governance. Of these six structures, four were considered options for the Great Redwood Trail and were analyzed in more detail. This assessment concluded that a central governance structure, as a successor agency, is best suited to most efficiently meet the railbanking requirements and to manage and maintain a trail that crosses multiple jurisdictions. This successor agency should own the entire corridor, have a clear reporting structure, and have access to a consistent, reliable funding stream. This organization/agency could either develop, manage, and maintain the entire length of the corridor, or partner with various public and private entities for these services at specific locations along the trail. A full discussion of the options and case studies begins on page 41 and is included in Part II of Appendix D.

### [Rail-Trail Constructability](#)

The Rail-Trail Constructability and Feasibility assessment was conducted by State Parks and looked at physical conditions, cultural resources, historic structures, accessibility, constraints in the Eel River Canyon, active transportation route opportunities, and ease of construction. A full discussion of the issues can be found starting on page 54 and in Part I of Appendix D. Key highlights of these findings include the following:

Planning-level Cost Estimates - Trail development of the entire 252-mile corridor is estimated to cost nearly \$750 million, or about \$3.1 million per mile, in 2020 dollars, and in excess of \$1 billion, or about \$4.6 million per mile, in 2030 dollars. These costs are in addition to the known and contingent liabilities described above and would be incurred over many years based on project phasing and priorities. These cost estimates do not include unknown, but potentially significant, environmental remediation costs that may be required prior to project construction. The significant costs and long-term maintenance challenges are related mostly to major stabilization of slopes; rebuilding or replacement of deteriorated rail infrastructure; and potentially rerouting around major obstructions.

Physical Constraints - Throughout the entire rail corridor, but more concentrated in the Eel River Canyon, physical constraints that influence trail feasibility include: geomorphic challenges (landslides, high-risk slopes); large right-of-way encroachments (particularly if they are legally authorized); failing infrastructure (bridges, trestles, culverts, and tunnels); abandoned equipment; and previous contamination or hazardous materials sites that may require remediation. In addition, the presence of wetlands and special-status species; historic structures; areas of archaeological sensitivity; and tribal lands may present significant constraints to trail development.

Major Opportunities - Most of the corridor is conducive to trail construction and problem areas are in discreet, identifiable locations. In the Eel River Canyon, for example, it is estimated that 75 percent to 85 percent of the corridor is in good physical condition for trail construction. Trail design options could reduce construction and environmental mitigation costs; thereby improving feasibility. If fully developed, the Great Redwood Trail would provide a tourist attraction and active transportation commuter route. It is estimated to generate \$24 million in annual local economic activity, reduce 1,580.43 metric tons of carbon dioxide, and increase walking and biking by 1,384,915 new trips annually.

#### Potential Environmental Remediation, Mitigation, and Liability

Environmental remediation, mitigation, and liability costs are estimated at \$4 billion based on a precursory analysis of existing conditions visible in the corridor; prior environmental studies, databases, and consent decrees; cost comparisons; and knowledge of current regulation. It includes an assessment of project-level environmental studies and wetland mitigation, which will vary depending on the project design. It also estimates remediation of known hazardous waste contaminants as part of a larger trail project. A detailed discussion can be found starting on page 64 and in Appendix F.

NCRA has an outstanding consent decree requiring environmental remediation at station sites throughout the corridor. Cost for the remediation effort was estimated in 2002 at \$4.3 million to \$6.9 million. There are additional liabilities due to abandoned rail equipment, including rail cars, that are left along the line and in the Eel River. NCRA has received legal notice from at least one local jurisdiction that it must remove abandoned rail equipment, in the City of Eureka, but this effort was halted due to worker exposure to hazardous material. The equipment remains onsite. Finally, there are unconfirmed potential costs and obligations regarding the storage of liquefied petroleum gas in Schellville, Sonoma County, which is in the southern section proposed for transfer to Sonoma-Marin Area Rail Transit District (SMART).

If the Great Redwood Trail project moves forward and the railroad corridor is converted to a trail, wetland mitigation and hazardous waste remediation will be required. The level of effort and therefore, cost, varies greatly depending on the chosen project design and site-specific characteristics not yet identified through environmental studies. Based on the project phasing developed in State Parks' report (Appendix D), Caltrans' North Region Division of Environmental developed a cost estimate for environmental liability focused on these two aspects of the project, including some environmental studies. The planning-level estimate for wetland mitigation is \$103 million. Hazardous waste was identified at 39 locations based on previously documented reports. The remediation estimate assumed that all ballast (gravel in railbed) would be required to be removed and cleaned off-site and that only 50 percent of the track would be easily accessible from the road, with a cost estimate of \$3.9 billion to \$4 billion for full remediation of the entire corridor. If the trail project does not move forward, or if the ballast does not require removal, this liability cost estimate will be reduced. (See Appendix F)

### [Freight Rights in the Southern Section](#)

The highest and best use of the NCRA right-of-way and freight operations easement on the southern portion of the rail corridor (beginning with mile post 89 at the Sonoma-Mendocino county line) is a transfer to SMART for passenger and freight rail operations. It is also well suited to development of rail-with-trail segments as part of the Great Redwood Trail. Section 17 of SB 1029 appropriated the sum of \$4 million to SMART for the acquisition of freight rights and equipment from North Western Pacific Railroad Company (NWPCo), NCRA's contracted freight operator, to ensure efficient provision of goods movement requirements in the corridor in the context of growing passenger service. In addition, the Budget Act of 2019 appropriated \$2 million dollars to SMART for safety upgrades and maintenance upon acquisition of a freight contract. The Task Force acknowledges that SMART will need funding to adequately maintain

the additional right-of-way and freight operations. SMART, NWPCo, and NCRA have concurred with this arrangement and the agreements to execute the transfer are in progress. A detailed discussion of freight rights starts on page 71.

## Scenario Analyses

Final Task Force recommendations distill findings from the individual Task Force assessments into five alternative scenarios. Scenarios 1, 2, and 5 consider the financial and policy implications of dissolving NCRA, while scenarios 3 and 4 leave NCRA intact. Scenarios 2 and 3 also explore the financial and policy implications of converting the former railroad to the Great Redwood Trail, a multi-use “active transportation” corridor, as proposed by SB 1029. Scenario 1 liquidates the right-of-way, scenario 4 maintains NCRA’s *status quo*, and scenario 5 contemplates purchase of the right-of-way by another railroad company.

The five scenarios considered include:

- Scenario 1: NCRA is dissolved, and its right-of-way is liquidated
- Scenario 2: NCRA is dissolved, and its right-of-way is converted to a trail
- Scenario 3: NCRA is not dissolved, and its mission is amended
- Scenario 4: NCRA maintains *status quo*.
- Scenario 5: A new railroad company buys out NCRA

### Dissolution of NCRA

Dissolution of NCRA requires legislation because a dissolution plan was not included in its enabling legislation and a process has not been previously established. Scenarios 1, 2, and 5 include dissolution as part of the analysis. Dissolution considerations are discussed beginning on page 78 and include the following:

- NCRA’s outstanding debt;
- Ongoing lease agreements, encroachments, licenses, and permits;
- Environmental remediation and potential ongoing liability; and
- NCRA’s role in railbanking.

Scenario 1 includes liquidation of the right-of-way and must also consider the following:

- Liquidation of the corridor prevents future railroad use (pages 78 and 83);
- The cost of title reports must be planned for;

- Reversionary clauses will be triggered (see page 35);
- Existing lease agreements and contracts may interfere with liquidation plans; and
- If the State requires sale proceeds returned (see page 32) and additional costs to the seller are incurred by real estate due diligence environmental analyses (see page 81), liquidation may result in a negative net value.

Scenario 2 includes conversion of the right-of-way to a trail and must also consider the following, as discussed in detail starting on page 84:

- A trail manager must be identified, and effective trail governance established, before rail abandonment commences;
- Railbanking costs and timeframes per STB regulations must be planned for;
- A reliable funding source for trail development must be identified;
- Environmental mitigation costs will vary based on trail design and will need to be reassessed; and
- Effective stakeholder input must be incorporated into the process.

Scenario 5 includes the purchase of NCRA by a new railroad company and must include the identification of a railroad company with the resources to rehabilitate the railroad line. This is discussed in detail starting on page 89.

### [NCRA is not Dissolved](#)

Scenarios 3 and 4 maintain NCRA's governance of the rail corridor.

Scenario 3 changes NCRA's mandate from owning and operating a railroad to owning, constructing, and maintaining a trail in the rail corridor. Repurposing NCRA by amending its mandate to focus on trails is discussed in more detail starting on page 86 and would need to consider the following issues:

- NCRA would be 1) the railroad owner and would need to file a notice of abandonment for the railroad with the STB, and 2) the trail management successor agency, which would need to apply to railbank the corridor with STB before proceeding with the trail development process.
- It would still need to address the issues discussed above, including outstanding debt; lease agreements and encroachments; licenses and permits; and environmental liability.
- A reliable source of revenue would be required to cover agency operations under the revised mandate, including additional staff expertise for a trail management agency would need to be identified.
- NCRA is a quasi-governmental entity which lacks formal public oversight, and has resulted in a lack of transparency, public mistrust and significant debt. Structural change to avoid repeating past problems is

recommended. Specifically, NCRA should be identified as a local agency, state agency, transportation district, or private organization and new reporting requirements with clear oversight responsibilities should be created.

- Staff with trail management experience would need to be hired.

Scenario 4 maintains the status quo and makes no changes to NCRA or the railroad corridor. Based on results of this assessment, key considerations are discussed in more detail starting on page 88 and include:

- It is anticipated that current conditions are not conducive to NCRA meeting its existing mandate to rehabilitate the railroad north of Windsor and its regular annual revenue cannot support agency operations combined with its current debt load.
- Liquidation of NCRA's assets is not likely to cover current outstanding debts, deferred maintenance, and continuing property management responsibilities, and NCRA may be forced into bankruptcy or immediate dissolution. In such an event, NCRA's right-of-way is likely to fall to the Department of General Services.
- Environmental liabilities may persist.

### Next Steps

Statutory changes would be required to dissolve NCRA and set a clear path forward for the corridor. It would be beneficial for management of the corridor if follow-up legislation clarified whether the right-of-way should be liquidated, sold to another railroad company, or converted to the Great Redwood Trail. If the Great Redwood Trail option is preferred, the legislation should also identify or create a successor trail management agency (or amend NCRA's mandate) with a clearly defined governance structure and oversight mechanism, a reliable revenue source to support agency operations, and establish a process for public stakeholder engagement in the next phase of the project. Finally, resources to support NCRA agency operations through the dissolution process, with ongoing CalSTA oversight, should be considered.

SB 1029 requires NCRA to seek approval from the California Transportation Commission (CTC) for any sale, easement, or lease executed after August 1, 2018. Caltrans continues to monitor NCRA's contracts, activities, and provide technical assistance, including liaising with CTC as necessary.

## Conclusion

NCRA's right-of-way includes significant and costly challenges. The agency's debts threaten its financial viability, and all options for resolution are expensive. The Legislature stepped in to protect the failing railroad in 1989 when it created NCRA and funded its right-of-way acquisitions. The CTC supported NCRA when it allocated transportation funds for rail rehabilitation. If NCRA is left to disband on its own, it is likely that NCRA's assets and liabilities will ultimately fall to DGS, which handles abandoned property. Railbanking the corridor would allow for interim trail use, preserve the corridor for future railroad use, and create an attractive tourist destination as well as a scenic non-motorized commuter route.

## Acronyms

This assessment report uses the following abbreviations, acronyms, and common names.

- CalSTA, California State Transportation Agency
- Caltrans, California Department of Transportation
- CTC, California Transportation Commission
- DGS, Department of General Services
- NCRA, North Coast Rail Authority
- NWPCo, Northwestern Pacific Railroad Company
- NWPRA, Northwestern Pacific Railroad Authority
- OSAE, Department of Finance, Office of State Audits and Evaluations
- RRIF, Railroad Rehabilitation & Infrastructure Financing
- SMART, Sonoma Marin Area Regional Transit
- State, State of California
- State Parks, California Department of Parks and Recreation
- STB, Surface Transportation Board



Figure 2. NCRA Corridor, Southern Section

## STATUTORY REFERENCE & PURPOSE

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This assessment report is submitted to the California Legislature (Legislature) in compliance with Government Code section 13978.9, which requires the California State Transportation Agency (CalSTA), in consultation with the Natural Resources Agency, to conduct an assessment of North Coast Railroad Authority (NCRA) to provide information necessary to:

- 1) determine the most appropriate way to dissolve NCRA and dispense with its assets and liabilities including the debts, liabilities, contractual obligations, and litigation; assets, including property, rights-of-way, easements, and equipment; and freight contractor lease, including the contractor's assets and liabilities, to the extent that information is available;
- 2) assess the feasibility of converting the railroad corridor to a multi-use trail including an assessment of governance structure options for a successor agency that would assume ownership and management responsibilities from North Coast Railroad Authority;
- 3) assess options for railbanking portions of the railroad corridor, feasibility, and process of railbanking; and
- 4) assess the options for transferring the southern portion of the rail corridor to the SMART including material assets and liabilities, as well as rights and abilities to operate freight rail.

An excerpt of the applicable Legislation is included in this Assessment Report as Appendix A.



## HISTORY OF NCRA AND THE STATE OF CALIFORNIA

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The historic Northwestern Pacific Railroad begins at the Ferry Building in San Francisco, mile post 0.0, and runs north to Humboldt County where it splits, circling west around Humboldt Bay and east past the City of Blue Lake to Korbel, a small historic logging settlement in the Redwoods of Humboldt County — a total distance of approximately 316 miles. (See Figure 1, page 2) The Northwestern Pacific line was built in the late 1800s to haul redwood lumber and passengers between Humboldt County and the San Francisco Bay Area. It was in regular operation by a series of private owner-operators until the 1980s when the timber industry began to decline. In 1983, Eureka Southern Railroad, a private enterprise, which owned the northern section (Willits to Humboldt Bay) sought authority to abandon the rail line under 49 U.S.C. Section 10903 from the Interstate Commerce Commission<sup>1</sup>. The Commission denied the request in 1984, and Eureka Southern Railroad filed Chapter 11 Bankruptcy on December 15, 1986. The railroad, and liquidation of its assets, then fell under the jurisdiction of the US Bankruptcy Court and its trustee, Philip M. Arnot<sup>2</sup>.



**Figure 3. Section of the NCRA Railroad in the Eel River Canyon**

To preserve the rail corridor, the California Legislature enacted the North Coast Railroad Authority Act, Government Code sections 93000, et seq. (Statutes of 1989, Chapter 1085). The Act authorized the newly created public entity to provide passenger and freight railroad service in Humboldt, Trinity, Mendocino, Sonoma, and Marin Counties with specific focus on the Eureka Southern Railroad in Humboldt and Mendocino Counties and the option of extending service into

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<sup>1</sup> The Interstate Commerce Commission was abolished in 1995 and several of its functions, including the governance of railroads, were transferred to the Surface Transportation Board.

<sup>2</sup> In Re Eureka Southern Railroad Inc., 1987

Del Norte County. To facilitate this, the Legislature authorized the use of state and federal funds to begin purchasing the line, one segment at a time. The details of these purchases and types of funds can be found in Appendix B, *Public Investment in the NCRA Rail Corridor*.

The first purchase, which took place in 1992, included a portion of rail and all assets owned by Eureka Southern Railroad under the purview of the bankruptcy trustee. This section of rail, which extended from Willits north to Korbel and around Humboldt Bay, used state Proposition 116 funds (1990) exclusively for the right-of-way purchase and made NCRA the sole owner of freight and passenger rights. (See the map in Figure 1, Page 2)

Three additional right-of-way purchases were brokered in 1995 and 1996 on the southern portion of Northwestern Pacific line with ownership shared between NCRA and a Joint Powers Authority, North Western Pacific Railroad Authority (NWPRA), which would eventually transfer all its holdings to SMART. The “Willits,” the “Healdsburg,” and the “Lombard” Segments extended public ownership of the railroad from Willits, Mendocino County, south to Novato, Marin County, and from Ignacio, Marin County, east to Lombard near the Napa River in Napa County and national rail interchange. Figure 4 on page 16 depicts the right-of-way ownership delineation lines, with the red segment under NCRA ownership and the blue segment under SMART’s. The two entities have further developed operational easements and maintenance agreements in their shared territories.

After purchasing the Eureka Southern Railroad in 1992, NCRA operated freight service and a short-lived passenger rail service before severe storm damage and deferred maintenance compelled the Federal Railroad Administration to close the entire NCRA railroad from Arcata to Schellville for public safety reasons<sup>3</sup> in 1998. Not only were there landslides and collapsed tunnels, but there were also railcars in the Eel River (where they continue to reside in 2020), and staff were not adequately trained to safely handle operations. The railroad remained closed until 2011 when the Emergency Order was lifted for Windsor south to Ignacio and east to Lombard, for freight service only.

After 23 years with no operable railroad north of Windsor, Senator Mike McGuire introduced Senate Bill 1029 (SB 1029), the *NCRA Closure and Transition to Trails Act*. SB 1029 was signed into law (Chapter 934, Statutes of 2018) by former Governor Edmund G. Brown Jr. on September 29, 2018.

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<sup>3</sup> Emergency Order 21, Notice No. 1 on November 25, 1998



Figure 4. Map of Northwestern Pacific Railroad - Southern Section

## State Oversight

When the Legislature created NCRA, it did not designate NCRA as a state or local agency and did not appropriate funding for its operations. Since its inception, NCRA has covered its expenses from rail revenues; state grant funding; public and private loans; loan forgiveness; proceeds from lease agreements; and leasing or sale of assets.

NCRA's quasi-governmental status has complicated its relationship with the state and local jurisdictions. As an independent special district, it has claimed to be a "state agency," a "local agency," and when it has been beneficial, a "railroad," thereby qualifying itself periodically for a variety of different funding mechanisms and environmental exemptions. Aside from the California Public Utilities Commission, which exercises state jurisdiction over rail operations, NCRA has no formal state oversight built into its governance structure. Caltrans does not have prescriptive or enforcement jurisdiction over NCRA, and oversight activities have been limited to fiduciary responsibilities associated with grant funds allocated by the CTC and administered by Caltrans.

As a result, Caltrans has provided monitoring and auditing for state-funded activities of NCRA. After a 1998 post-project audit conducted by Caltrans' Office of External Audits and Investigations<sup>4</sup>, NCRA received the designation of "High-Risk Grantee" and the CTC began requiring 'special conditions' to be included with each subsequent release of funds. These conditions required enhanced oversight by Caltrans and more rigorous reporting by NCRA. Subsequent audits have not removed the "High-Risk Grantee" designation.

## Public Investment in the NCRA Corridor

Between 1990 and 2011, a total of \$124 million of state and federal funds were invested in the NCRA corridor to restore freight rail service. These funds were used to purchase the entire right-of-way from Lombard to Humboldt Bay; to rehabilitate 62 miles of track (including 56 crossing signals, 50,000 crossties, and 50,000 tons of ballast); emergency levee repairs in Schellville and Humboldt Bay; repair 43 rail bridges and three movable bridges; install quiet zones in Novato; to briefly cover NCRA agency funds and outstanding debt; to settle litigation; and to address environmental contamination left behind by the historic private rail

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<sup>4</sup> With the passage of Senate Bill 1, The Road Repair and Accountability Act of 2017, Caltrans's Office of External Audits and Investigations was reorganized. The new Independent Office of Audits and Investigations is led by a Governor appointed Inspector General and is vested with the authority to maintain a full-scope, independent, and objective audit and investigation program.

operators. However, the economic, environmental, and social challenges NCRA faced proved insurmountable for the resumption of freight rail service in this corridor, which has led to the current effort and assessment for use of NCRA's right-of-way as a multi-use path.

Current investment in the SB 1029 Assessment and associated dissolution activities includes \$17.8 million. A full description of state and federal funds used in this corridor can be found in Appendix B, *Public Investment in the NCRA Rail Corridor*.

**Table 1. Summary of Public Investment in NCRA Rail Corridor**

<b>Purpose</b>	<b>Amount</b>
Right-of-Way and Equipment Acquisition	\$44,800,000
Rail Rehab/Capital Projects	\$48,744,364
Project & Environmental Studies	\$12,677,000
Debt, Admin, Local Match	\$17,310,550
SB 1029 Assessment & Dissolution	\$17,800,000
<b>TOTAL PUBLIC INVESTMENT</b>	<b>\$141,331,914</b>

## Northwestern Pacific Railroad Company (NWPCo)

Following an open bidding process, NCRA's Board of Directors approved NWPCo as its new freight operator on September 13, 2006, and executed an Operating Agreement later that month.

NWPCo is a private enterprise created in June 2006 and should not be confused with the prior owner-operator, North Western Pacific Company L.L.C. (NWPY); the historic name of the rail line, Northwestern Pacific Railroad (NWP); nor the Joint Powers Authority and SMART predecessor described previously on page 15, NWPRRA.

Following execution of the Operating Agreement, NWPCo and NCRA entered into a series of complicated contracts that helped finance rehabilitation of the southern portion of the line and lift the Emergency Order 21 from Windsor, south; it also left NCRA severely in debt to NWPCo and contractually obligated for up to 99 years with no guaranteed lease payment revenue<sup>5</sup>. These contracts and financial arrangements are detailed on page 23 and Appendix C, *OSAE Calculated Value of Net Assets Report*.

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<sup>5</sup> Unless and until NWPCo's revenues exceed \$5,000,000 for freight operations on the line, it owes no annual lease payment to NCRA.



## FINANCIAL ASSESSMENT

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### Scope of Work

OSAE's responsibilities and objectives for its component assessment report were to 1) assess NCRA's debts, liabilities, contractual obligations, and litigation; 2) assess NCRA's assets, except for the estimated values for equipment and real properties with property rights; and 3) assess NCRA's freight contractor lease, including the contractor's assets and liabilities, to the extent that information is available. The OSAE assessment did not include the estimated values for equipment, real properties with property rights, and contingent (including potential environmental) financial liabilities. Instead, the Task Force teams collaborated to compile lists of equipment and contingent liabilities based on the information available and verified the existence of the equipment whenever possible. As a result, the calculated value as of December 31, 2019, presented on the following pages excluded values for these items.

In conducting the assessment and determining the calculated value, OSAE focused on NCRA's business transactions from July 1, 2016, to December 31, 2019, and expanded this period when necessary to the extent the information was available. OSAE interviewed individuals from NCRA, including NCRA's board members, Caltrans, SMART, and NWPCo. OSAE reviewed NCRA's and NWPCo's accounting records and other available documents; reviewed working papers of the independent auditors of NCRA and NWPCo; obtained third-party confirmations and representation on financial and legal information and equipment conditions; and visited select NCRA depots to verify equipment. Because not all records were available and NCRA was able to provide only limited information on NCRA activities, OSAE's determination of calculated value is based on certain assumptions, as cited in the report.

OSAE's complete *Calculated Value of Net Assets Report* is included as Appendix C.

### Net Calculated Value of NCRA

Based on the calculation procedures performed by OSAE; facts and circumstances as of the calculation date; and assumptions made, the calculated value of NCRA's net assets as of December 31, 2019, was a total debt owed of \$7,239,933. This calculated value excludes capital assets (equipment and real properties) and contingent liabilities. The current market value of these assets has

not been calculated or considered here. Table 1 summarizes the calculation results.

**Table 2. Calculated Value of Assets and Liabilities as of Dec. 31, 2019**

Description	Calculated Value
Cash	\$ 104,857
Accounts Receivable, net of Allowance for Bad Debt	\$ 41,378
Other Current Assets	\$ 22,453
<b>Total Assets</b>	<b>\$ 168,688</b>
Railroad Rehabilitation & Improvement Financing Loan	\$ (2,403,899)
Debts owed to NWPCo	\$ (3,321,721)
Professional Services Payables	\$ (1,000,657)
Employment Related Liabilities	\$ (235,365)
All Other Payables	\$ (446,979)
<b>Total Liabilities</b>	<b>\$ (7,408,621)</b>
<b>Total Calculated Value</b>	<b>\$ (7,239,933)</b>

## Financial Assets

The following financial assets are variable, and the totals included in this report are confirmed only through December 31, 2019. NCRA continues to be an operational organization with daily agency activities, and these confirmed totals will need updating if NCRA is dissolved. NCRA's major assets are briefly described below; please refer to the full *Calculated Value of Net Assets Report* in Appendix C for additional detail.

### Cash

Valid and Supported Balance \$104,857

NCRA's cash is pooled with the Sonoma County Treasurer, which has been maintaining and managing NCRA's bank accounts and acting as NCRA's disbursing agent since 2001. The assessment validated cash transactions greater than \$5,000 between July 1, 2016, and December 31, 2019, by reviewing associated agreements and invoices.

### Accounts Receivable

Valid and Supported Balance \$41,378

Accounts receivable consist of uncollected property lease income and other service fees. Based on OSAE's review of income transactions for the period between July 1, 2016, and December 31, 2019, and the associated lease

agreements and invoices, NCRA's primary income sources included revenue from leasing rail cars, properties, and cellphone towers' facilities.

### Other Current Assets

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Valid and Supported Balance \$22,453

NCRA's other current assets confirmed total includes prepaid insurance expenses and small deposits made in 2006 and is valid as of December 31, 2019.

### Outstanding Debt and Contractual Obligations

NCRA's debt obligations as analyzed in the OSAE report are valid as noted below as of December 31, 2019. Activity on the accounts after December 31, 2019, has been noted as updates in the description but have not been confirmed in the total calculated value presented by OSAE. For additional detail, please see the full Calculated Value of Net Assets Report in Appendix C.

### RRIF Loan

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Recorded Balance \$2,403,899

Valid and Confirmed Balance \$2,403,899

The Federal Railroad Administration granted NCRA and NWPCo a loan, as co-borrowers, from the Railroad Rehabilitation & Improvement Financing (RRIF) Program in November 2011.

Under the loan terms, the Federal Railroad Administration agreed to lend NCRA and NWPCo up to \$3.18 million for allowable project costs. The loan bears an interest rate of 2.96 percent per annum and is due and payable in full 25 years after the date of the drawdown. NCRA-owned rail cars and equipment (identified previously as assets) were pledged as collateral to secure the loan.

#### Update after December 31, 2019:

- NWPCo has made two quarterly payments of \$45,115 each.
- CalSTA has encumbered funds to settle the remaining RRIF Loan balance; as part of the transfer of freight rights from NWPCo to SMART, south of the Sonoma-Mendocino county line.

## Debts Owed to NWPCo

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Recorded Balance \$3,992,534  
 Calculated Value Total \$3,321,721

Incorporated in June 2006, NWPCo is a freight carrier operating 62 miles of rail between Lombard and Windsor. NWPCo and NCRA entered into an Operating Agreement in September 2006 for the resurrection of operations along the Northwestern Pacific Railroad Line between Willits and Healdsburg, including NCRA's freight easements between Healdsburg and Lombard.

The Operating Agreement had an initial term of five years, with options to extend. In September 2011, NWPCo sent a Notice of Action to extend the agreement term by 20 years. Under the agreement, NWPCo is required to remit annual lease payments in the amount of 20 percent of net income commencing in the first year after NWPCo has generated positive net income exceeding \$5 million. In June 2011, the Operating Agreement was amended to require NWPCo to remit \$25,000 monthly lease payments. The lease payment requirement was waived, and the obligation was terminated upon the execution of the Memorandum of Understanding – FRA Loan.

Since September 2006, NCRA and NWPCo have maintained a close financial and operational relationship. While NCRA struggled to become financially sustainable, it incurred significant debt through continued borrowing from NWPCo. Specifically, NCRA entered into eight agreements, seven amendments, and one informal financing arrangement with NWPCo to fund NCRA's operations. It also incurred a trade payable obligation. As of December 31, 2019, OSAE's calculated value of NCRA's debts owed to NWPCo totaled \$3,321,721. A detailed discussion can be found in the full OSAE report (Appendix C).

## Calculated Value for Legal Obligations – Judgments/Settlement Claims

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Recorded Balance \$2,155,198  
 Calculated Value Total \$0  
 Updated Balance \$658,183+

OSAE categorized legal obligations such as legal judgements and settlement claims as Legal Liabilities in its *Calculated Value of Net Assets Report* in Appendix C. For purposes of this discussion, Legal Liabilities are referred to as legal obligations – judgements/settlement claims.

OSAE identified three long-term legal obligations – judgments/settlement claims liabilities, two of which could not be verified. The third liability was settled in April 2019 with Friends of the Eel River and Californians for Alternates to Toxics

regarding their lawsuit over NCRA's Russian River Division Environmental Impact Report (EIR). CalSTA used funds appropriated in the 2019 Budget Act to settle the Russian River Division EIR lawsuit debt of \$1,915,803.29 in January 2020. Although this payment was made after December 31, 2019, it was included in the calculation to determine the calculated value.

Update after December 31, 2019:

On April 29, 2020<sup>6</sup>, NCRA settled one lawsuit OSAE identified as a contingent liability (see Table 3). According to the stipulated judgement against NCRA, an outstanding balance of \$658,183 is owed to MCM Construction and interest will accrue at a rate of 7 percent per annum from May 5, 2020, until paid in full. In September 2019 MCM Construction filed a complaint for breach of contract and violation of prompt payment statutes, alleging NCRA owed a total of \$500,000 for work performed on the Ukiah Depot courthouse project. In addition to the 7-percent post-judgment interest and opposing party's attorney's fees, NCRA is required, pursuant to Public Contract Code, to pay 2 percent interest on retention and 10 percent interest on progress payments.

### Professional Services Payables

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Recorded Balance \$1,002,852  
Confirmed Total \$1,000,657

NCRA maintains two regular staff members (Executive Director and an Executive Assistant). All other staff are on-call contractors. As of December 31, 2019, NCRA owed two of its contractors a total of \$1,000,657 for services rendered.

#### *American Rail Engineering, Inc.*

NCRA entered into a professional services contract with the American Rail Consultants in January 2007 for engineering and other supporting services.

The assessment noted NCRA's unpaid invoices balance of \$410,365 materially agrees with American Rail Engineering, Inc.'s, confirmation and is valid and supported. However, an adjustment of \$5,699 is needed to increase interest owed to \$189,903 based on American Rail Engineering, Inc.'s, confirmation and OSAE's recalculation.

Outstanding balance owed to American Rail Engineering, Inc., as of December 31, 2019, is \$600,268.

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<sup>6</sup> MCM and NCRA reached settlement on April 29, 2020. The Mendocino County Superior Court entered the settlement into judgment on May 5, 2020.

Update after December 31, 2019:

American Rail Engineering, Inc., has an active contract for Professional Services that it continues to provide to NCRA. Outstanding invoices for work performed during FY 2019-20 have been brought current using NCRA lease revenue and CalSTA funds from the Budget Act of 2019<sup>7</sup>, which appropriated \$8.8 million for “expenses related to dissolving NCRA, including operations, maintenance, and the retirement of outstanding debt.” Outstanding invoices for services provided by American Rail Engineering, Inc., prior to FY 2019-20 do not qualify for payment from this funding source and will continue to accrue interest until satisfied.

*Christopher Neary*

Christopher Neary served as NCRA’s legal counsel until February 2019, when Sonoma County became NCRA’s legal counsel. Based on OSAE’s review, NCRA’s recorded balance owed to Christopher Neary should be reduced by \$7,894, due to an incorrectly recorded invoice and a duplicate monthly retainer recorded for September 2017. As of December 31, 2019, the calculated value for amounts owed to Christopher Neary is \$400,389.

Mr. Neary is no longer under contract with NCRA, and once this debt is settled, additional liability is not anticipated.

Employment Related Liabilities

Recorded Balance \$218,734  
Confirmed Total \$235,365

*Net Pension Liability*

NCRA participated in the Miscellaneous Plan and the Public Employees’ Pension Reform Act Miscellaneous Plan, both of which are defined benefit retirement plans administered by the California Public Employees’ Retirement System (CalPERS). Based on OSAE’s analysis, the balance of \$212,650 is confirmed as of December 31, 2019, and will vary due to other factors that impact net pension liability. In addition, NCRA may incur unfunded termination liability if it were to terminate its retirement plans with CalPERS.

*Salaries and Benefits Payable*

NCRA’s general ledger included \$22,715 in salaries and benefits payable as of December 31, 2019. Based on review of the accounting records and financial statements, OSAE determined the calculated value for salaries and benefits payable is based on NCRA’s general ledger balance of \$22,715 as of December 31, 2019.

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<sup>7</sup> AB 74 (Ting, Chapter 23, Statutes of 2019), Item No. 0521-101-0001

## All Other Payables

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Recorded Balance \$1,037,172  
Confirmed Balance \$446,979

### *Balfour Beatty Rail Inc.*

NCRA recorded a \$6,637 balance owed to Balfour Beatty Rail, Inc., for unpaid invoices and \$296,036 interest, totaling \$302,673 as of December 31, 2019. OSAE made several attempts to obtain confirmation of these balances from Balfour Beatty Rail, Inc., and its successor company, but received no response. As such, OSAE was unable to validate the balance and the calculated value does not include the amounts owed to Balfour Beatty Rail, Inc.

### *TransDynamics and Golden Age Rail Equipment Corporations*

NCRA incurred an obligation of \$510,000 to TransDynamics Corporation and Golden Age Rail Equipment Corporation for the purchase of various rail equipment in 1997. The general ledger listed an unpaid balance totaling \$288,708, including \$124,000 principal and \$164,708 in interest. TransDynamics Corporation has been dissolved, and a successor could not be found. Likewise, Golden Age Rail Equipment Corporation could not be located. Therefore, OSAE was unable to validate the debt and the calculated value did not include the \$288,708 unpaid balance and interest.

### *Unearned Rent Revenue*

Unearned rent revenue comprises payments received under property and operating lease arrangements in advance of the period earned. Revenue is recognized on such lease arrangements on a *pro rata* basis over the lease term. NCRA recorded \$235,690 unearned rent revenue as of December 31, 2019. OSAE validated this balance. Therefore, the \$235,690 unearned rent revenue balance was valid and supported, and OSAE based its calculated value on the general ledger balance for unearned rent revenue as of December 31, 2019.

### *All Other Vendors*

NCRA recorded other payables of \$210,101 as of December 31, 2019. OSAE increased this amount by \$1,188, to \$211,289, through verifications with respective vendors. These debts are owed to numerous small vendors because of regular business practices; this amount will vary as NCRA continues to operate through the 2020-2021 and subsequent fiscal years.

## Contingent Liabilities

Contingent liabilities summarized in Table 3, below may occur depending on the outcome of an uncertain future event. Estimated potential liability amounts listed as "Unknown" may require further analysis by specialized consultants. This list is

not all inclusive and additional liabilities may be identified if NCRA is dissolved. Please see the full OSAE *Calculated Value of Net Assets Report* in Appendix C for additional detail. Environmental remediation liabilities are described below and discussed further in the *Environmental Liabilities* section starting on page 64.

**Table 3. Contingent Liabilities**

Description	Estimated Potential Liability Amounts
<b>Potential Environmental Remediation Costs</b>	
Estimated costs for future rail ops, clean-up, and remediation activities to comply with the Environmental Consent Decree settled in July 1999.	\$4,347,000 \$6,926,000 <sup>8</sup>
Abandoned rail cars and equipment in the Eel River and other sites.	Unknown
Potential legal issues and removal costs of rail equipment in Eureka	Unknown
Potential safety improvements needed for the hazardous material storage of LPG cars stored in the Schellville Depot.	\$5,200,000 \$7,200,000
Other existing and probable hazard materials and contaminants.	Unknown
<b>Potential Repair, Maintenance, and Structural Removal Costs</b>	
Costs for a falling trestle, weed abatement, and a collapsed tunnel.	Unknown
Potential removal costs related to illegal structures.	Unknown
Costs for one building at the Ukiah Depot and three in the Willits yard.	Unknown
Costs related to rail debris identified by State Parks' consultants.	Unknown
<b>Potential Liabilities Resulting from NCRA's Business Practices and Property Rights</b>	
Potential interest owed to Christopher Neary as of July 31, 2019.	\$193,660
Estimated settlement for MCM Construction litigation <sup>9</sup>	\$536,026
Potential liabilities related to a football field on the Willits yard.	Unknown
Potential liabilities for NCRA waiving competitive bidding for contracts.	Unknown
Unfunded termination liability related to NCRA's pension plans with CalPERS as of June 30, 2018.	\$759,027 \$846,259
Future management fees for FEC Real Estate Service.	\$40-\$50,000/yr.
Defending encroachments.	Unknown
<b>Potential Liabilities Related to Third-Party Rail Equipment Owners</b>	
Costs for relocating rail equipment owned by two third-party owners.	Unknown

<sup>8</sup> Estimate pursuant to the 2002 Capital Assessment report, not represented in present dollar value. Remaining obligations of the Environmental Consent Decree not assessed as of December 31, 2019.

<sup>9</sup> MCM litigation was settled in May 2020. Please see page 24 for more detail.



## PROPERTY ASSESSMENT

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### Scope of Work

The Department of General Services, Asset Management Branch, Real Estate Services Division's (DGS) responsibilities and objectives for this assessment were to 1) assess NCRA's property, rights-of-way, and easements; 2) assess options for transferring the southern portion of the rail corridor to SMART; and 3) estimate market rate values for equipment and real properties.

DGS, helped identify and aggregate NCRA real property data along its 316-mile rail corridor. DGS reviewed recorded and unrecorded real property asset data provided by NCRA; its property manager FEC Real Estate Services LLC; SMART; CalSTA; the California Department of Tax and Fee Administration (CDTFA, formerly BOE) railroad valuation maps; County Assessor maps and data; County Surveyor mapping; information obtained from ParcelQuest Parcel & Property Data; and material provided by NWPCo. More than 2,800 right-of-way parcels and their associated property rights were identified and compiled in an electronic itemization and tabulation Excel spreadsheet available on the project webpage: <https://calsta.ca.gov/subject-areas/reports>

Ownership data was arranged in sequential order running the length of the rail corridor from south to north. Data fields represented in the spreadsheet include specific references to each of the acquisitions identified as part of the original assemblage of the NCRA right-of-way corridor and include the related preliminary report or policy of title insurance; right of way corridor valuation map; engineering survey stations; regional location; mile post; grantor; grantee; conveyance document type (fee, easement, lease, or other agreement); document date, recording book, and page; acreage; and remarks from the Property Schedules found on the valuation maps. Electronic links to the preliminary reports or policies of title insurance, grant deeds, and valuation maps are embedded within the electronic spreadsheet and are available on the project webpage: <https://calsta.ca.gov/subject-areas/reports>

County Assessor maps along the 316-mile rail corridor were also assembled sequentially, aggregated from south to north in an Adobe Acrobat file format. Where needed, the maps were augmented to include approximate location of the railway corridor. This digital file is available on the project webpage: <https://calsta.ca.gov/subject-areas/reports>

NCRA's previous property manager, FEC Real Estate Services LLC, provided the Task Force with all its leases, licenses, permits, and other agreements related to FEC's management and mitigation of encroachments affecting NCRA's corridor. These agreements affect property owned in fee by NCRA located north of the Sonoma-Mendocino county line (mile post 89), some of which are income generating and have been reported in the OSAE *Calculated Value of Net Assets Report* in Appendix C.

Collectively, the data and documents compiled are intended to be utilized by SMART and NCRA, or its successor agency, during the proposed conveyances and are anticipated to provide efficient and cost-effective benefits to the buyer, seller, and title company.

### Equipment, Rights-of-Way, and Other Capital Assets

NCRA's capital assets primarily consist of land, buildings, track structures, heavy equipment, rolling stock, motor vehicles, and unused signal equipment. DGS compiled the inventory of parcels, while Ascent Environmental gathered data on track structures and freight rail equipment along the line. OSAE determined the existence and completeness of NCRA's own inventory of equipment, including heavy equipment, rolling stock, motor vehicles, and unused signal equipment.

Because the inventory of equipment and property was conducted concurrently by the Task Force agencies, reconciling the lists and determining market value for each item was not possible during the study period. For these assets to be liquidated during a dissolution process, the fair market value will need to be determined at that time. The following equipment and capital assets were identified during this assessment:

#### Equipment

#### Market Value Unknown

During its assessment OSAE identified 306 pieces of equipment and miscellaneous materials (e.g. rail ties, culverts, etc.), which are detailed in OSAE's *Calculated Value of Net Assets Report* in Appendix C. Items of interest include the following:

- OSAE confirmed 143 pieces of equipment owned by NCRA through observations or third-party confirmation. This included six pieces of heavy equipment and 33 rail cars used as collateral to secure the Federal Railroad Administration RRIF Loan. The 33 rail cars were purchased with a FEMA grant in 1996 and are leased to the Boston Transit Group, of which OSAE confirmed the existence and operating status. The same group of equipment (heavy equipment and rail cars) also served as collateral to the Bridge Financing Agreement, the Marin Consent Agreement, and the

Reopening Project Agreement to secure debts owed to NWPCo, as discussed in OSAE's report. On March 27, 2019, NWPCo filed documents with the Surface Transportation Board asserting its rights to the 33 rail cars, along with the Boston Transit Group lease and lease proceeds therefrom, pursuant to the Marin Consent Agreement. If NWPCo (or the other creditors) exercises its lien on this equipment, NCRA would lose its largest and most reliable source of revenue, a total of almost \$12,000 per month.

- Thirty-eight pieces of equipment observed during site visits belonged to third parties or unknown owners. The 38 pieces do not include various liquefied petroleum gas rail cars and Skunk Train rail cars owned by third parties.
- The location and ownership of 125 pieces of equipment could not be determined by OSAE during its assessment. The team identified these pieces of equipment by obtaining equipment-related information from photo albums, internet searches, and available documents. Due to the age and quality of the information reviewed, OSAE determined that the 125 pieces could include equipment no longer owned by NCRA. Additionally, in the absence of identification numbers for the equipment, the 125 pieces may include the 38 pieces described above.

During its field review of the NCRA right-of-way, the State Parks team documented 13 locations throughout the rail corridor where abandoned rail equipment, structures, or railroad debris were observed, See Table C-7 in Appendix C for detail; the locations can be found in Figure 2.6-1 in the Map Book portion of Appendix C. Items of interest include the following:

- rail cars (e.g., cranes, excavators, horse trailers),
- a communications tower,
- crossing debris,
- railroad track switches,
- grease boxes,
- displaced culverts and culvert debris,
- scattered metal debris and pieces,
- residential buildings (such as hunting cabins abandoned homes), and
- failed tunnel portals.

## Property, Rights-of-way, and Easements

## Market Value Unknown

NCRA's real property, whether owned in fee or held as a railroad easement, was purchased with state and federal funds. (See Appendix B for details on funding program, purpose, and dollar amounts.) The funds transfer agreements

associated with these transportation programs and state bond funds require that any right-of-way acquired remain in public transportation use *in perpetuity*. If the right-of-way is sold or taken out of public transportation use, the proportionate funding participation by the State and other non-recipient generated public funds must be returned or credited to the State. The *pro rata* share is based on fair market value, not necessarily sale price. In lieu of repayment, the *pro rata* share may be dedicated exclusively to a CTC-approved public transportation purpose. The State's *pro rata* share is as follows:

- All right-of-way acquired north of Willits was purchased with 100 percent Prop 116 funds and therefore, 100 percent of proceeds would be returned to the state Public Transportation Account or dedicated to a state-approved public transportation purpose.
- All right-of-way acquired south of Willits and east from Ignacio to Lombard was purchased with a mix of 10 percent state Transit Capital Improvement funds and 90 percent federal Q-funds. Therefore, not less than 10 percent of proceeds would be returned to the state Public Transportation Account or dedicated to a state-approved public transportation purpose. Federal Highway Administration has not sought recovery of the federal share of funding.
- All right-of-way acquired south of the Sonoma-Mendocino county line and east from Ignacio to Lombard is subject to the 90-percent/10-percent proportional share split described above. However, the right-of-way is expected to be transferred to SMART in accordance with Section 17 of SB 1029 (McGuire, 2018) and not available for liquidation if NCRA is dissolved.



## RAILBANKING ASSESSMENT

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### Description

Railbanking is the legal process by which an unused rail line preserves its right-of-way status as a rail line and allows for an interim use, such as a multi-use trail, when the right-of-way is *not* being utilized to operate rail. If a railroad wishes to convert the trail back into a railroad, the right-of-way has retained its status with the STB as a rail line and the conversion is a straight-forward legal matter.

Procedures for railbanking the NCRA rail corridor were researched utilizing resources from the Rails-to-Trails Conservancy and the STB. Highlights of that process are discussed below, and detailed information can be found in Appendix D, *Great Redwood Trail Feasibility, Governance, and Railbanking Report*.

### Process

The railbanking process consists of three basic steps, as outlined below.

#### **Step 1:** Railroad Files Notice to Begin Abandonment Proceedings

The opportunity to railbank is triggered when a railroad owner formalizes its intention to divest a rail line, or portion of one, by initiating abandonment proceedings with the STB<sup>10</sup>. Within 30 days after the abandonment filing, qualified trail managers may express interest in railbanking the line by filing with the STB. If a freight rail operator is willing to assume responsibility, it has priority over a railbanking proponent.

#### **Step 2:** Trail Manager Files Public Use Condition and Interim Trail Use Request

The potential trail manager must submit all filings within the required timeframes, include a map delineating the proposed trail by mile post, and acknowledge its willingness to assume full legal and financial responsibility for the corridor. Any entity that takes on the role of a trail manager must file a statement indicating its willingness to assume full responsibility for: 1) Managing the right-of-way, 2) Any legal liability arising out of the transfer or use of the right-of-way, and 3) The

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<sup>10</sup> The Surface Transportation Board is an independent federal agency that is charged with the economic regulation of various modes of surface transportation, primarily freight rail. Created on January 1, 1996 by the ICC Termination Act of 1995, the Board is the successor to the former Interstate Commerce Commission (1887-1995) and was established as a wholly independent federal agency on December 18, 2015.

payment of any and all taxes that may be levied or assessed against the right-of-way.

### **Step 3: Railbanking Negotiations**

Once the potential trail manager has filed a railbanking request, the railroad owner must confirm with the STB that it consents to the proposal. Upon STB approval, the parties then have one year to negotiate the terms of the transition, including, but not limited to, right-of-way transfer through sale, easement, or lease; cost; equipment transfer or construction and maintenance responsibilities, etc.

Once the railbanking process has been completed and ownership of the right-of-way transferred to the trail manager, trail planning and construction can begin. The railroad owner will have the opportunity to remove any tracks, ties, or other property during the negotiation period.

## Reversionary Clauses

Railroad alignments in the United States in general, and California in particular, were mostly established in the late 1800s by means of federal legislation, land grants, voluntary sales, and eminent domain. Sales contracts, grant deeds, and railroad easements often included reversionary clauses, which means that fee interests revert to the grantor (or descendants) if the right-of-way ceases to be used for rail purposes. Railbanking is considered a rail purpose because it maintains the integrity of the alignment for future use. *Railbanking therefore ends the abandonment process and avoids the activation of reversionary clauses.* There is also an argument under the shifting public use doctrine that continued use of the corridor for transportation may be enough to avoid reversion.

The alternative to railbanking is abandonment via formal process with the STB, which is usually initiated by the railroad but can be started adversely by others. In abandonment proceedings, the right-of-way is made available to other railroad companies to keep the line operational. If no rail companies are willing to take over operations, reversionary clauses may be triggered. Reversionary clauses vary, so an examination of each contract, easement, and deed would be necessary to determine the likelihood of reversion upon abandonment with STB.

## Preservation of Future Rail Options

Based on the experience of NCRA and its predecessors, the costs of preserving the historic NWP rail line north of Healdsburg as a freight railroad outweigh the benefits. Absent a large economic draw on the north coast, such as a resurgence

in the redwood forest products industry or development of the Humboldt Port, it does not make economic sense to invest further public funds into preserving and rehabilitating a freight railroad currently.

Railbanking provides a unique opportunity to use the historic NWP corridor as a public-use, active<sup>11</sup> transportation route, while it continues to be preserved as a rail line for future railroad use. If at some point in the future a large economic draw is developed, a railroad company would have the ability to restore the corridor to rail use by petitioning the STB.

This assessment examined railbanking the northern portion of the NCRA right-of-way as well as the non-railbanking alternative.

### [Option 1: Railbank the Corridor](#)

If NCRA is dissolved and the right-of-way is designated as a public active transportation corridor, railbanking the corridor is vital to maintaining a successful project. It will preserve the contiguous corridor in its entirety, allow for an interim trail use, and be accessible for future railroad purposes if necessary.

With 252 miles proposed as the Great Redwood Trail, it will be necessary to establish a trail management agency with enough resources to handle the legal process of railbanking while assuming full legal and financial responsibility for the corridor, including, but not limited to, maintenance of the existing right-of-way (such as weed abatement and emergency repairs); maintenance of existing and future contractual obligations; and physical conversion of the railroad corridor to a multi-use path.

### [Option 2: Do Not Railbank the Corridor](#)

During its compilation of parcel data, DGS identified more than 2,800 parcels in the NCRA rail corridor. Each parcel deed has the potential of containing a reversionary clause and will need to be assessed on an individual basis, if the right-of-way is not preserved as an active railroad or railbanked.

Parcels owned in fee could be sold or retained for use as a trail. Parcels held by easement would likely revert to the underlying property owner, creating breaks in the corridor. If the corridor is intended to be used as a trail, the trail manager would either negotiate a sale price with the underlying property owner or

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<sup>11</sup> According to the Centers for Disease Control and Prevention, "active transportation" is any self-propelled, human-powered mode of transportation, such as walking or bicycling. Physical inactivity is a major contributor to the steady rise in rates of obesity, diabetes, heart disease, stroke, and other chronic health conditions in the United States.

condemn at fair market value, adding cost to the project and potentially leaving gaps in the trail that would be expensive to close.

This option would also terminate all future railroad opportunities. Without the protection of railbanking, any use other than as a rail line could constitute abandonment of the railroad, and property owners would have the right to invoke their reversionary clauses. Property owners with fee simple, who own their property outright, would be able to use or dispose of their property in any manner permitted by law.

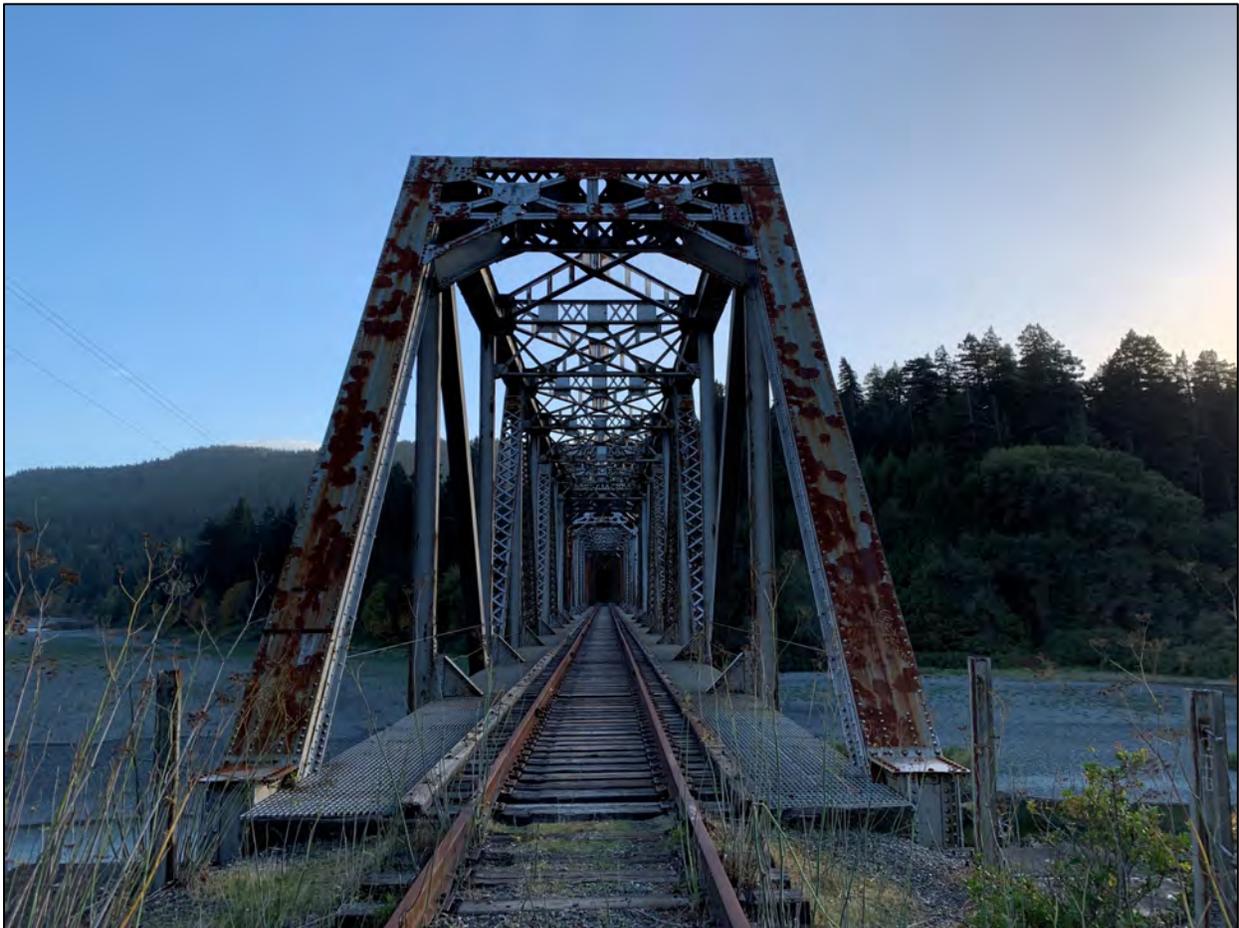


Figure 5. Aging Railroad Trestle in NCRA Corridor

## SUCCESSOR AGENCY GOVERNANCE OPTIONS

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### Scope of Work

The planning, construction, operation, and maintenance of the Great Redwood Trail in its entirety would likely be a multi-generational effort. Although the primary purpose of this section is to identify potential governance structures for the immediate next steps for the Great Redwood Trail project, this section also recommends looking beyond these steps to identify a long-term management solution for the trail (see SB 1029 Section 2[a][4][A]).

The rail corridor would require certain environmental remediation efforts before and during construction of a trail (see Chapters 2 and 3 of the Trail Feasibility Assessment in Part I of Appendix D). After construction, the Great Redwood Trail would require a comprehensive operations and maintenance plan, as well as a reliable annual operating budget to maintain acceptable trail standards. Identifying the owner and operator of the trail at this early stage would help provide an adequate governance structure to manage the complex future operational and maintenance needs of the trail.

State Parks' *Great Redwood Trail Feasibility, Governance, and Railbanking Report* in Appendix D examined six typical trail management governance structures including:

- Single Government Organization
- Nonprofit Organization
- Cooperative Agreement
- Joint Powers Authority (JPA)
- Commission
- Special District

The governance evaluation for the Great Redwood Trail measured these common trail management structures against the criteria developed for the trail. These criteria examined how well each governance structure could potentially manage the corridor over multiple generations, considered the existing policy field, and the lessons learned from NCRA. Based on this analysis, two criteria — classification and multi-jurisdictional trail — were identified as critical to success.

Because a successful trail governance structure for the Great Redwood Trail must also assume financial and legal responsibility of the corridor, some of the common trail management governance structures identified above, such as a cooperative agreement or nonprofit organization, may not have the capacity to own and manage the corridor alone. As a result, only three of the common

management governance structures were found to be applicable to the Great Redwood Trail project. These include:

- State ownership,
- JPA ownership, and
- Local and nonprofit organization ownership.

A fourth model considers a continuation of the status quo, in which NCRA continues to own the right-of-way but removes railroad operations from its mandate and instead, focuses on trail management. While this option was analyzed and identified as a potential solution, it is not a strong candidate as a trail management agency due to NCRA's existing limitations, including its lack of clear reporting structure, limited financial capacity, and narrow focus.

## Analysis Criteria

When conducting its analysis, the State Parks team considered a number of critical elements such as the existing governance structure of NCRA; the ability of a governance structure to railbank and manage the corridor, including environmental remediation, trail construction, and long-term planning; the ability of the governance structure to operate within the policy field in which it is established; and its interactions with numerous concerned stakeholders, such as jurisdictional partners, business interests, and the public.

Measurable criteria were created that examined the ability of governance structures to fulfill the specified tasks and responsibilities of a trail manager.

The following two criteria were identified as critical and are the basis for analysis of all potential governance structure options. If an option did not meet these criteria, it was not considered viable.

1. **Classification:** Identified what type of entity was being proposed. Classifications include local and state agency; multi-agency; joint powers authority; nonprofit; and special districts. The classification is important to determine the agency's legal status and reporting structure. NCRA does not have a clear classification, which made oversight of its operations challenging.
2. **Conducive to Multi-Jurisdictional Trail:** Identified whether the governance structure being analyzed would be conducive to building and maintaining a trail that spans multiple jurisdictional boundaries. All governance structures considered for the Great Redwood Trail meet this criterion.

The following additional, measurable criteria were created to identify typical governance structures that may also be appropriate for this corridor. These included:

- **State Risk:** Measured the potential level of risk and liability to the State.
- **Timeframe for Implementation:** Measured how long the trail would take to implement given the strengths and weaknesses of the proposed governance structure being analyzed.
- **Existing Staff Expertise and Resources:** Measured whether an existing entity would have staff with trail expertise and capacity to manage and maintain the trail; recognizing that the establishment and operation of a new entity would require additional administrative and overhead costs.
- **Trail Consistency:** Measured the ability to build and consistently maintain the trail. Decentralized governance structures or structures without stable funding sources may have limited ability to implement or maintain the trail in a consistent manner.
- **Potential Funding Consistency:** Measured the availability of stable funding sources for trail planning and design, development, and operations and maintenance. Governance structures that relied on membership fees or donations may result in unequal distribution of resources along the corridor.
- **Long-Term Operations & Maintenance Costs:** Measured the level of funds required to operate and maintain the trail.
- **Maintenance Capabilities:** Measured the capacity for conducting maintenance along the trail.



Figure 6. Wild and Scenic Eel River Canyon

## Ownership Models

To successfully implement and maintain a potential future Great Redwood Trail, a trail manager must be identified with the ability and capacity to guide the overall vision of the trail; identify funding opportunities and administer funds; coordinate with partner agencies and organizations; oversee planning, design, and construction; manage contractors; and oversee operations and maintenance. The trail manager would also need to railbank the corridor to ensure that it is preserved for public transportation *in perpetuity*. The trail manager that takes on the railbanking process would take on potentially significant liability.

The following ownership models have trade-offs with respect to State risk; timeframe for implementation; access to potential funding sources; staff expertise and capacity; trail consistency and quality; and long-term operations and maintenance costs.

### OPTION 1: State Ownership

In this management structure, a single agency manages the transportation corridor. Because the NCRA railroad corridor passes through multiple local agency jurisdictions, the potential for a single local agency to be the manager of the entire trail is complicated.

A state agency could provide strong expertise, which may facilitate quicker and higher quality implementation of the trail. However, it would also create the highest risk to the State in terms of liability and cost and may be subject to competing state efforts.

#### Great Redwood Trail: Roles and Responsibilities

State ownership of the Great Redwood Trail would vary depending on whether the designated agency is an existing or a newly created agency. While an existing state agency may have the organizational structure and expertise to manage the Great Redwood Trail, it would require substantial additional staffing, equipment, and funding resources to oversee planning, design, construction, and environmental remediation efforts and effectively operate and maintain the trail. It could, however, partner with local jurisdictions to manage trail implementation and maintenance, and with non-profit organizations for advocacy and fundraising efforts.

### Role, Responsibility, and Liabilities of the State

In a state-ownership option, the State would be directly involved in all aspects of trail implementation, operations, and maintenance. The State would also, in turn, be responsible for any existing rail infrastructure and associated liabilities along the corridor, which may result in significant increased costs of hundreds of millions of dollars to state taxpayers, potentially even before implementation and operation of the trail. However, not all costs would necessarily fall on the State, as some could be accounted for through innovative financing solutions as well as private, federal, and local sources.

### Great Redwood Trail: Funding Stream

To provide funding for trail planning, operations, and maintenance, the State could collect revenue generated through trail user fees, rent from utility companies that have located their infrastructure (cell phone towers, fiber optic cable, water lines, telephone lines etc.) within the rail corridor right-of-way, and lease agreements from encroaching neighbors. This revenue is not expected to cover support staff costs; environmental remediation and mitigation; capital projects; and future maintenance. Additional study is needed to determine the estimated funding gap between projected revenue and annual trail management expenses.

Supplemental revenue could be obtained through state and federal appropriations and/or grants. Local agency and nonprofit partners could provide local funds, in-kind support, and volunteers to supplement state and federal funds.

See Figure 8 for the organizational diagram and Part II (Section 6) of Appendix D, *Great Redwood Trail Feasibility, Governance, and Railbanking Report* for additional detail.



Figure 7. Stranded Rail Car and Equipment in NCRA Corridor

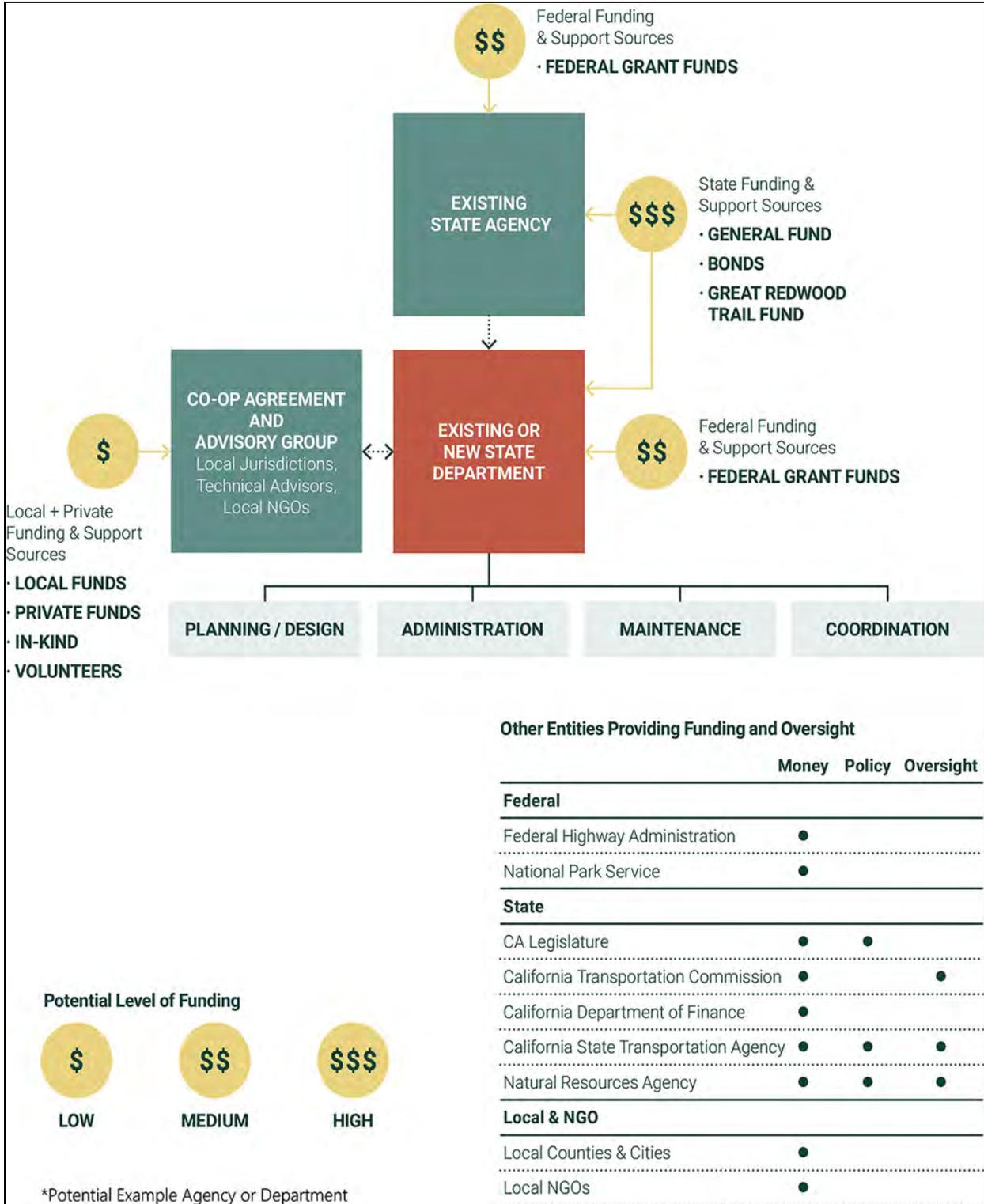


Figure 8. State Agency Organizational Chart

## OPTION 2: Joint Powers Authority

A Joint Powers Authority (JPA) is an entity that allows its member agencies to jointly exercise common powers. The structure allows for one entity to oversee a trail crossing multiple jurisdictions and is typically funded by its member agencies or can pursue donations and grants as well as issue bonds. Because it requires creating a new entity, a JPA governance structure for the Great Redwood Trail would include initial administrative and other overhead costs.

This structure would enable agencies to formally partner by creating a new legal entity to oversee trail implementation and maintenance. The JPA would own the corridor in fee or easement; manage trail planning and implementation; and ultimately, manage trail operations and maintenance.

### Great Redwood Trail: Roles and Responsibilities

For the Great Redwood Trail, the JPA option is considered a local-only option made up of the local counties and cities. It could, however, also be established using local and state agencies. Anticipated member agencies could include local counties, such as Humboldt, Trinity, Mendocino, Sonoma, and Marin, and local cities, including Blue Lake, Arcata, Eureka, Fortuna, Rio Dell, Willits, Ukiah, Cloverdale, Healdsburg, Windsor, Santa Rosa, Rohnert Park, Petaluma, and Novato.

The JPA should be overseen by a Governing Board of Directors consisting of appointed Directors from each member agency and could include a Governor-appointed ex-officio member to provide state-wide representation. Member agencies would appoint or hire staff to manage the various responsibilities of the corridor, which, based on a review of other case studies, is estimated to be up to ten staff members including a full-time trail coordinator, planning and engineering staff, administrative staff, and program management staff.

### Role, Responsibility, and Liabilities of the State

The State could play a role in the JPA by appointing an ex-officio member to sit on the JPA's board, but it is not required. The JPA, rather than the State, would own the corridor in fee or in easement; would be responsible for implementing the trail; and would assume all liability and risk associated with the trail. If a state agency were to be part of the JPA, the State would be responsible only for its portion of the Joint Powers Agreement, not the corridor itself. This would limit state investment and risk in trail development and operations.

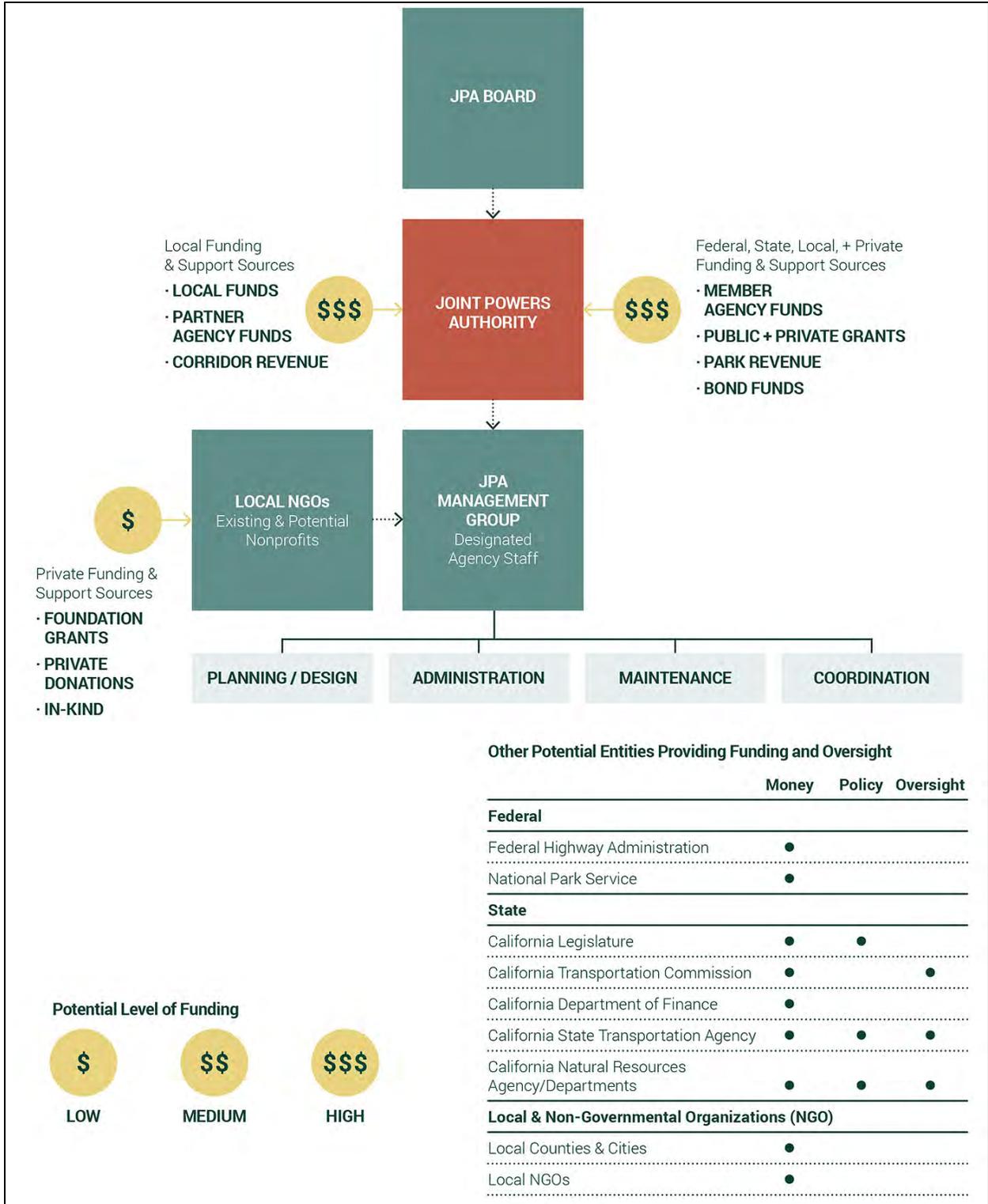


Figure 9. Joint Powers Authority Organizational Chart

### [Great Redwood Trail: Funding Stream](#)

The JPA could receive annual funds from each of its member agencies; state and federal grant funds; and corridor user-fee revenue. It could also partner with a nonprofit to provide additional funds through private donations. Finally, the JPA member jurisdictions could request their local tax base to vote on a special ballot measure and commit a portion of local sales tax revenue.

See Figure 9 for the organizational diagram and Part II (Section 8) of Appendix D, *Great Redwood Trail Feasibility, Governance, and Railbanking Report* for more detail.

### OPTION 3: Nonprofit and Local Jurisdiction Ownership

A nonprofit can draw funding from a large pool of sources, including private funding, and provides flexibility with program development, advocacy, and communications. However, it typically does not have the authority of an elected body or landowner and lacks a dedicated funding source without assistance from local, state, or federal funding mechanisms. Smaller nonprofits may not have the resources required to manage a corridor of this magnitude without support from another entity.

### [Great Redwood Trail: Roles and Responsibilities](#)

A trail manager for this project could be found within an existing nonprofit organization that is passionate about the Great Redwood Trail or it may be a new nonprofit created to oversee trail implementation.

The nonprofit would guide the overall vision and implementation of the project and partner with various local agencies to build and maintain different sections of the trail. The nonprofit would be led by an Executive Director and overseen by a Board of Trustees and an Advisory Board consisting of representatives of both the local and state levels. It is estimated that additional staff would be needed for regional operations, programs, communications, membership and fundraising, and administration.

The nonprofit organization would be responsible for coordinating trail planning and design; implementation; and programming. Local jurisdictions such as the counties and cities would own the right-of-way and oversee trail construction, operations, and maintenance.

In this option, the trail manager duties would be shared among different entities. The nonprofit organization would provide a strong centralized structure in terms of trail planning, coordination, and implementation. However, because

nonprofits generally do not have a stable funding source; the expertise required to operate and maintain a trail; or the capacity to assume the risk associated with owning the right-of-way, ownership, operations, and maintenance are left to local jurisdictions.

Although Option 3 provides an opportunity to receive funds from a wide array of sources, it would likely have less consistent funding than Options 1 and 2 and could result in a longer timeframe for trail implementation and less trail consistency.

### [Role, Responsibility, and Liabilities of the State](#)

To efficiently railbank the corridor, it would be beneficial for the State to consider managing the railbanking process with one centralized trail manager to initially assume the right-of-way and to ensure all legal requirements are met. The State would also be liable for the corridor during this temporary period. Specifically, any entity that takes on the role of a trail manager must file a statement indicating the willingness to assume full responsibility for 1) managing the right-of-way, 2) assuming any legal liability arising out of the transfer or use of the right-of-way, and 3) paying any and all taxes that may be levied or assessed against the right-of-way.

The State may have some oversight over the nonprofit to the extent that state representatives serve on the Advisory Board.

### [Great Redwood Trail: Funding Stream](#)

In addition to private funds, the nonprofit could also seek local, state, and federal grants.

Local jurisdictions could contribute local funds, corridor user-fee revenue funds, and local sales tax revenue and could apply for federal and state grant funds for trail construction, operations, and maintenance.

See Figure 10 for the organizational diagram and Part II (Section 10) of Appendix D, *Great Redwood Trail Feasibility, Governance, and Railbanking Report* for additional detail.

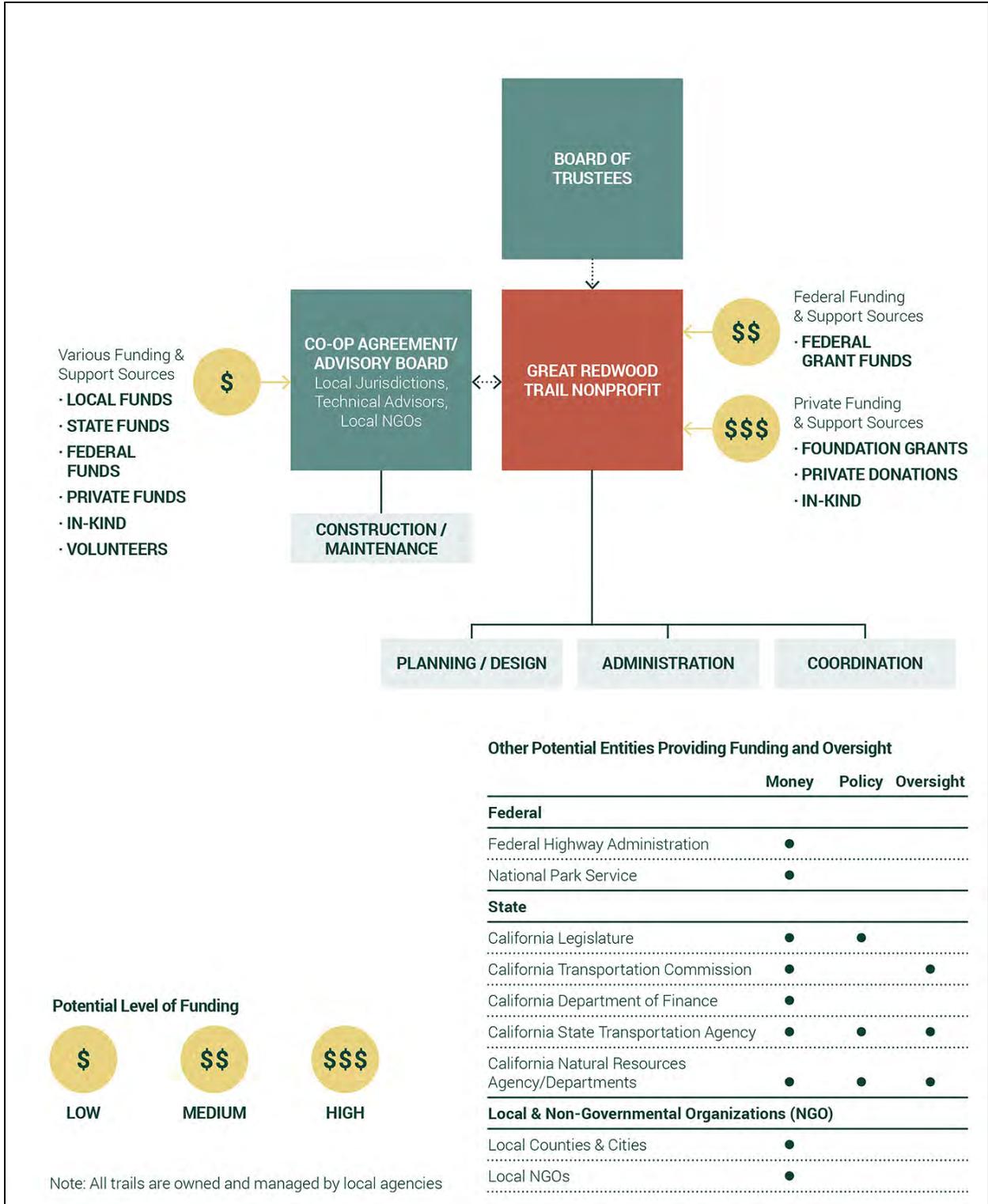


Figure 10. Nonprofit and Local Jurisdictional Organizational Chart

## OPTION 4: NCRA Status Quo

### Organizational Structure

NCRA's structure and authority are codified in the Public Utilities Code. NCRA's organizational structure is shown in Figure 12 on page 52. Although it was established as a public agency, it was not designated as a state or a local agency and as such did not have a clear reporting body from its beginning. NCRA is subject to STB and Federal Railroad Administration jurisdiction at the federal level.

NCRA's staff includes an executive director and an administrative assistant. The County of Sonoma provides legal counsel and accounting support to NCRA for a fee. In addition, NCRA also has on-call contracts with a resident engineer and transportation planner. While staff-level decisions are made by the executive director, major decisions require board approval and pursuant to SB 1029, the CTC. (See page 12.)

The Board of Directors is made up of nine members: two representatives each from Humboldt, Mendocino, Marin, and Sonoma Counties and one city representative.

### Funding

NCRA's regular revenue comprises individual payments for encroachment permits, lease agreements, and the commercial rental of 36 boxcars. In FY 2019-20 NCRA's budget anticipated \$381,080 and in FY 2020-21 NCRA budgeted \$361,115 in locally derived revenue. Budgeted annual agency expenditures for baseline operations for FY 2019-20 and FY 2020-21 exceeded NCRA's revenue by almost \$300,000 each year. NCRA does not have a dependable source of outside funding to supplement this revenue.

State project funding that NCRA received in the past was appropriated by the Legislature, approved and allocated by the CTC, and administered by Caltrans. These funds were project specific and not a regular source of funding for the agency. Local funds are collected and overseen solely by NCRA.

Some local entities utilize NCRA right-of-way without paying a fee, instead covering operations and maintenance of a section of the corridor. For example, the City of Ukiah holds a license agreement with NCRA that enables it to construct and maintain a multimodal rail-with-trail path within NCRA's corridor in the city limits. The City utilizes its own resources to provide maintenance and weed

abatement along its path within NCRA's right-of-way and charges NCRA for additional weed abatement services outside of the multimodal path footprint.

### [Existing Management Challenges](#)

The primary NCRA management challenges are summarized below.

1. NCRA was not designated as a local or state agency when it was established and as a result, was not provided with a clear reporting body. Because it has not clearly been subject to a regulating authority, there has been little oversight over its decision-making and financial transactions.
2. NCRA does not have sustainable funding to support its operating expenses. The decline of the timber industry reduced demand for railroad operations and ultimately led to the railroad's bankruptcy under private ownership prior to NCRA. Without a thriving industry behind it to drive demand, the complexity of the corridor meant that without a sustainable funding source NCRA could not maintain railroad operations. NCRA was created to assume financial and legal responsibility of the bankrupt railroad but was not provided with adequate funds to meet its mandate. As a result, NCRA has been unable to hire and retain qualified staff and has been forced to contract out work. These on-call contracts have ultimately proven to be overly expensive and have limited NCRA's ability to manage the existing right-of-way, address concerns along the corridor, and make improvements to failing infrastructure.
3. Because NCRA's board is made up entirely of local representation, it has historically made decisions that mostly benefit local interests. While the board has worked to protect the right-of-way as a singular transportation corridor, it has done so primarily for local economic interests.

### [Considerations for the Great Redwood Trail](#)

Because NCRA has long struggled financially due to a lack of available funding and low revenue stream, it has acquired significant debt. If NCRA were to be transformed into a new trail agency, the new agency would retain this debt, complicating environmental remediation efforts, trail development, and maintenance. Disposing of this debt and transferring NCRA's assets to either an existing entity or a new trail agency created for the purpose of developing the Great Redwood Trail would provide a governance structure that could efficiently manage these tasks.

Funding for NCRA as a Trail Manager

Most local funds that NCRA receives are for rail equipment that NCRA rents out to other companies. This revenue source would likely not be available to a future trail manager because the equipment may be sold, or collected as collateral on outstanding debts, during the dissolution of NCRA. In addition, there are numerous existing encroachments on NCRA right-of-way that are not currently approved by NCRA and therefore, no fees are collected by NCRA. The trail manager for the Great Redwood Trail should review all unapproved, unpaid encroachments and charge an annual fee for any that may remain.

One potential source of expanding revenue for NCRA, could be from existing and future utility lines that utilize the corridor.

Other Liabilities

There are additional environmental constraints associated with the corridor for which the trail manager would be liable and which the chosen governance structure should be equipped to handle. These constraints include, but are not limited to, infrastructure, such as bridges, tunnels, culverts; other structures in need of repair; and areas with hazardous materials that may require environmental remediation. These environmental constraints are detailed starting on page 54 and in Chapters 2 and 3 of Appendix D, Part I.



Figure 11. Deferred Maintenance in NCRA Corridor

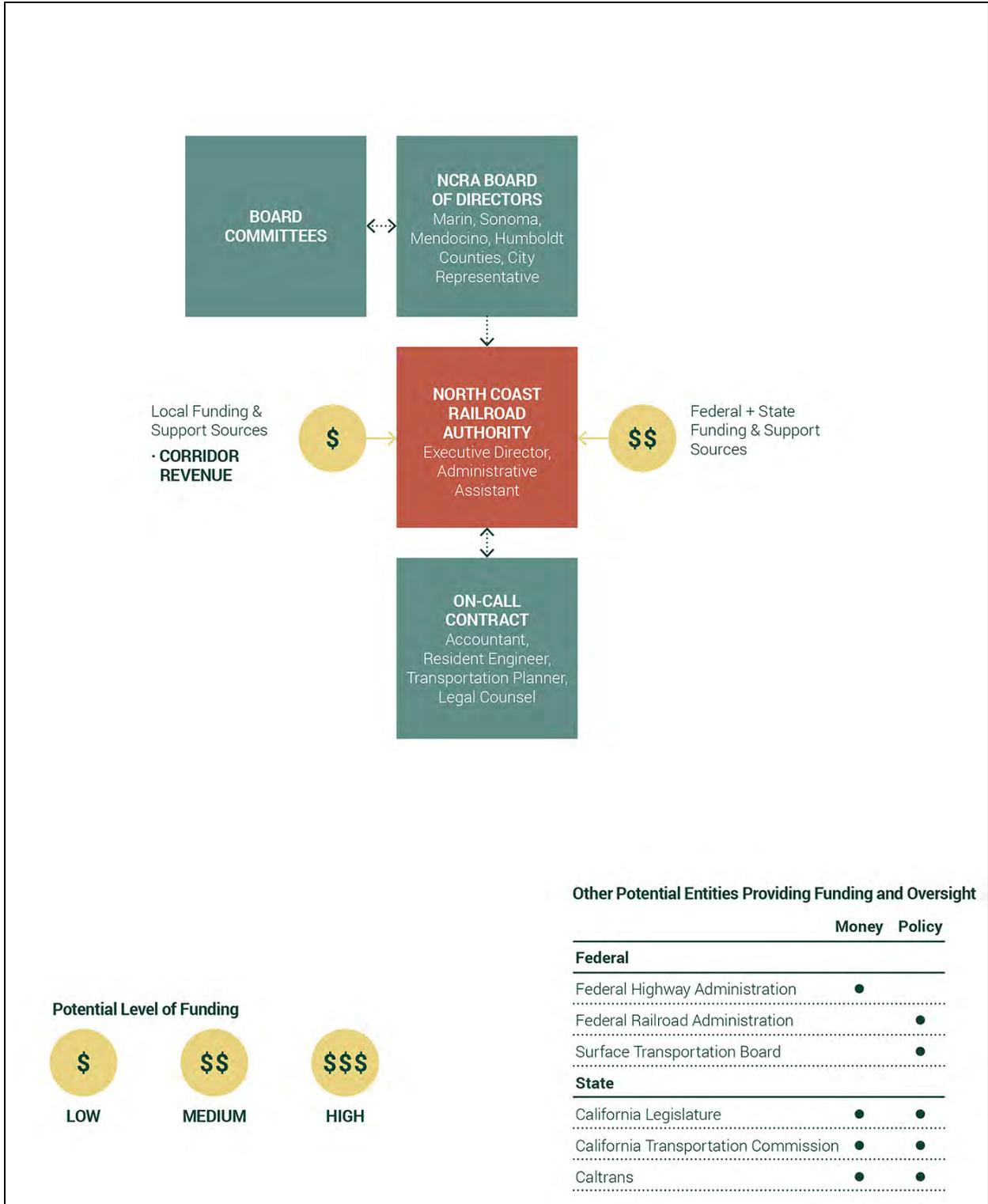


Figure 12. NCRA Organizational Chart



## RAIL-TRAIL CONSTRUCTABILITY

### Scope of Work

State Parks' assessment examined the viability and constructability of a trail developed on the entirety, or a portion of, the property, right-of-way, or easements owned by NCRA. This effort included, among other things, an analysis of physical constraints, environmental remediation requirements, and planning level cost estimates. The study methodology and findings are briefly described below; detailed information can be found in Appendix C, *Great Redwood Trail Feasibility, Governance, and Railbanking Report*.

### Methodology

SB 1029 divided NCRA's corridor into "northern" and "southern" sections. This assessment set the delineation line for the Great Redwood Trail at mile post 87, two miles south of the Sonoma-Mendocino county line. If the southern section is transferred to SMART, the southern two miles (mile posts 87 - 89) of the trail would be in SMART's right-of-way.

The northern section was evaluated for repurposing a 252-mile portion of the rail right-of-way into a trail, by means of a rail-to-trail conversion where rail service would cease and the rail corridor would become a public multi-use path. The corridor evaluated extends from Healdsburg in Sonoma County to Blue Lake, northeast of Arcata in Humboldt County, passing through the cities of Healdsburg, Cloverdale, Ukiah, Willits, Fortuna, Rio Dell, Eureka, Arcata, and Blue Lake, and dozens of unincorporated communities. (See Figure 13.)



Figure 13. Rail-with-Trail and Rail-to-Trail Sections

The southern section, from Healdsburg to Cloverdale, was evaluated for the potential of a rail-with-trail, where a rail facility and trail would share the corridor; consistent with SMART's existing rail-with-trail operations south of Healdsburg and SMART's plans to develop passenger service to Cloverdale in the future. (See Figure 13.)

The NCRA rail corridor was further divided into five major sections. (See Figure 14) Analysis of the trail sections included an assessment of the rail corridor right-of-way in its current state, i.e., its "existing condition." Rail infrastructure and other features were inventoried along with known environmental constraints, known cultural sites, soil stability, and ease of public access. Potential trail development types were analyzed for constructability given the segment's physical condition and proximity to urban centers, and "feasibleness" was determined based on a ranking of all the criteria. Costs were developed on a high-level preliminary basis for planning purposes only. Actual cost is variable and will change depending on details of the project design, environmental remediation requirements, and market rate of construction materials.

Several methods were used to gather information about the existing condition of the rail corridor, including searches of publicly available data sources and review of existing reports related to the corridor. To help inventory and assess the condition of existing structures (such as bridges and culverts) and features along the rail corridor, small teams conducted field assessments from Healdsburg to Arcata and the Carlotta, Samoa, and Korbel branches of the rail corridor.

## Great Redwood Trail Feasibility

The potential trail corridor contains significant feasibility challenges in certain locations, particularly in remote segments within and close to the Eel River Canyon. Key constraints include segments with steep, unstable slopes that destabilize hundreds and occasionally thousands of feet of the corridor; existing right-of-way obstructions that in some locations fully block the corridor; former rail infrastructure (i.e., bridges, trestles, tunnels, and major culverts) that have been dilapidated or destroyed by years of deferred maintenance; and the significant cost of developing a public trail.

Despite these constraints most of the 252-mile corridor is generally intact with good physical conditions for trail construction. State Parks' assessment confirmed that the corridor's gentle grades lend themselves to interregional non-motorized trail use. If fully developed, the Great Redwood Trail could create an outdoor recreation opportunity and commuter corridor that would connect Northern California communities with the Bay Area.

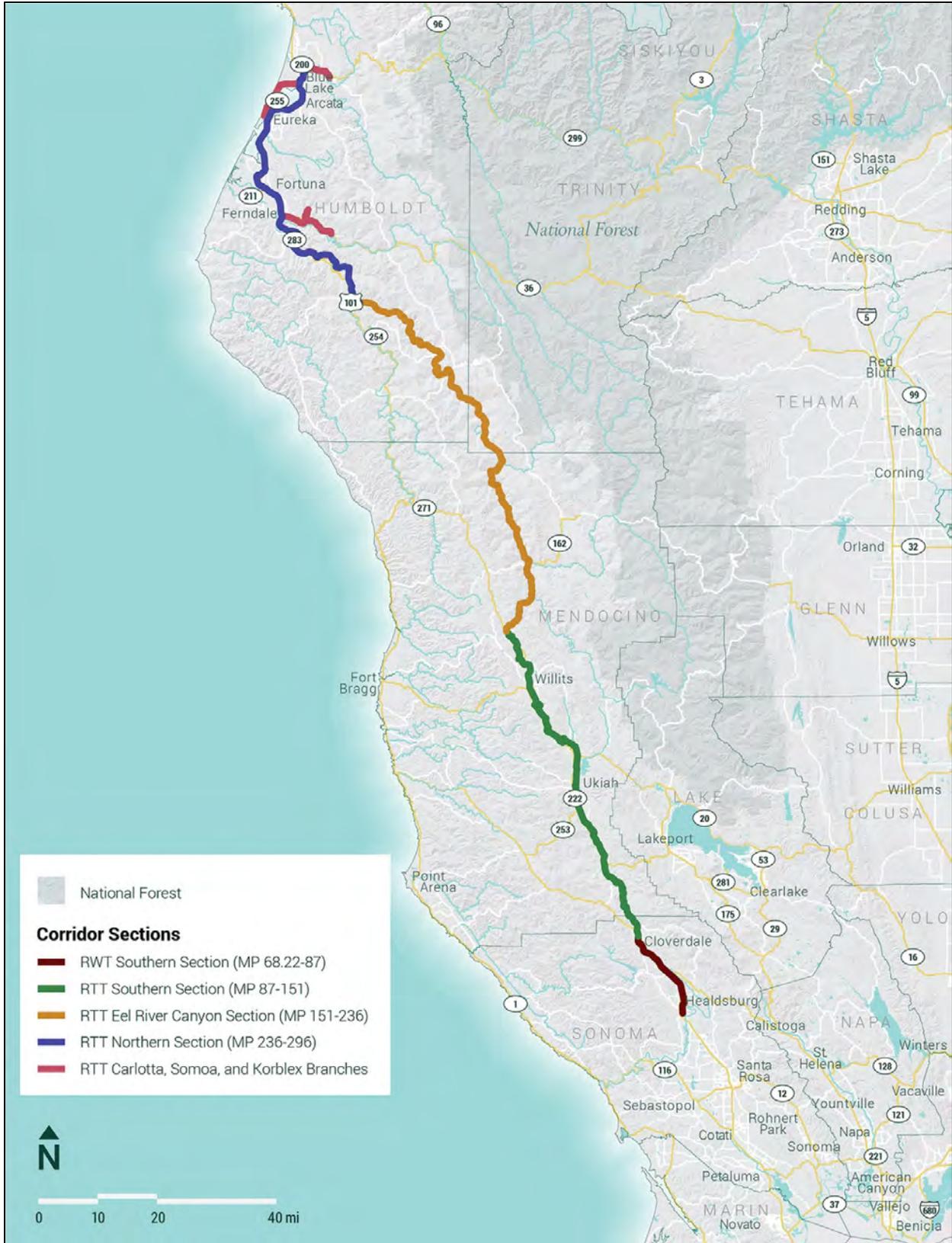


Figure 14. Trail Assessment Corridor Sections

### [User Demand Projections](#)

As expected, high trail-use estimates occur in segments within or near urban communities or towns along the corridor. Likewise, trail use through the more remote segments (generally between the cities of Willits and Ferndale) is anticipated to be low and oriented toward serious, long-distance cyclists and hikers, or perhaps occasional day-use by visitors driving to remote access points for short hikes.

Parts of the rail corridor already have fully developed rail-with-trail segments constructed adjacent to the rail bed. These are in more-populated areas, such as around Humboldt Bay near the cities of Arcata and Eureka, and continue to support regular, daily use. Only one developed segment, the Ukiah Rail Trail in Ukiah, has received a formal Great Redwood Trail designation.

Estimated trail use demand in the southern section of the rail corridor indicates the trail would experience substantial high-volume non-motorized use, including commuters and recreational users of all ages and abilities. This is expected to occur in Sonoma County where rail-with-trail could be implemented and near the larger communities, such as the cities of Ukiah and Willits in Mendocino County. Likewise, trail use demand projections are strong in the far northern part of the NCRA rail line; the corridor between the cities of Ferndale and Fortuna; and the corridor between the cities of Eureka and Arcata around Humboldt Bay.

### [Physical Constraints](#)

The major constraints within the rail corridor that most influence trail feasibility include geomorphic challenges (landslides, high-risk slopes), large right-of-way encroachments (particularly those that are authorized and leased by NCRA), failing infrastructure (bridges, trestles, culverts, and tunnels), and previous contamination or hazardous material sites where remediation is required. In addition, the presence of wetlands and special-status species, historic structures, areas of archaeological sensitivity, and tribal lands also may present significant constraints to trail development.

The presence of wetlands and special-status species in the corridor may influence the time and cost to implement the trail if extensive permitting, corridor re-routes, or compensatory mitigation are required.

### [Cultural Resources](#)

Identification and designation of potential archaeological and tribal cultural resources along the corridor would require cultural records research and regular

and consistent coordination with tribal representatives. If cultural resources are present and avoidance or mitigation measures are needed, the project may require a longer schedule and result in higher overall costs.

### Historic Structures

The presence of historic structures along the corridor is a minor benefit in the opportunity and constraints analysis because the resource offers an opportunity for interpretive signs and public education. There are, however, possible challenges associated with permitting and zoning requirements for historic sites. If building renovations are needed, for instance, the process for obtaining relevant permits and approvals may pose a challenge to trail development. In addition, historic buildings can pose liabilities associated with safety hazards, if they are in poor condition. While these constraints would not be insurmountable, they would substantially increase the cost of trail construction and maintenance, which could result in schedule delays and higher overall cost.

### Remote, Hard to Access Corridor

Development of the long center sections generally starting in the vicinity of the City of Willits and then continuing north through Trinity and northern Mendocino Counties to the area near the City of Ferndale in Humboldt County would involve significant environmental remediation and construction costs. Combined with low trail use demand projections, these remote sections may be difficult and financially challenging to fully develop with construction and maintenance costs expected to be high. Appropriate trail types for steep, sometimes unstable terrain should be emphasized in these sections, such as narrower, soft-surface recreational trail facilities instead of a hard-surface trail (Class I).

Significant costs and long-term maintenance challenges are related mostly to major stabilization of slopes; rebuilding or replacing deteriorated rail infrastructure; and possible rerouting around major obstructions. Rerouting can reduce costs in some locations, compared to replacing infrastructure, but can also result in additional costs to obtain access rights for the public access trail.

### Eel River Canyon

The Eel River Canyon poses unique challenges and opportunities. It has some of the greatest constraints in the corridor, including difficult geophysical conditions and dilapidated, unmaintained infrastructure. It is isolated and rugged, and the slopes are unstable. The substantial costs of construction and long-term maintenance in this highly dynamic landscape are noteworthy. Abandoned rail

cars and other rail debris are also present in this section, including in the river. However, approximately 75 percent to 85 percent of the NCRA rail corridor through the Eel River Canyon is in good physical condition for trail construction. This section of the trail offers some of the most spectacular views of the entire corridor, including the scenic values reflected in its Wild and Scenic River designation.

Due to its designation as both a federal and state Wild and Scenic River<sup>12</sup>, rigorous environmental protective measures would need to be incorporated into the trail design and construction. Trail development may also consider inclusion of river restoration opportunities, such as removal of collapsed rail infrastructure and rail cars from the river, enhancing the value of the trail and therefore its potential feasibility. At this preliminary assessment stage, it is unknown whether environmental restoration would be a requisite part of trail development, which would need further investigation to be determined. Due to access challenges, the costs to remove abandoned rail debris would be high. Recognizing the complexity of this section of the corridor, an alternative narrow, soft-surface trail may be readily developed and maintained over time, compared to a Class I hard-surface trail.

### [Interregional Active Transportation Route](#)

If fully developed, the Great Redwood Trail would become an interregional trail providing outdoor recreation and active transportation experiences. It would connect a major urban metropolitan area, the northern extent of the Bay Area, with the natural and scenic resources of the landscape along the North Coast to Humboldt Bay.

### [Most Feasible Trail Segments](#)

With limited physical, environmental, and cultural constraints; access to nearby communities with potential non-motorized users; and low construction costs; the following sections of the rail corridor are identified as the most feasible to develop:

- Rail-with-trail sections in Sonoma County,
- Trail segments near towns and urban communities (including Willits and Ukiah) in Mendocino County,

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<sup>12</sup> The National Wild and Scenic Rivers System was created by the Wild and Scenic Rivers Act of 1968 (Public Law 90-542[1]), enacted by the U.S. Congress to preserve certain rivers with outstanding natural, cultural, and recreational values in a free-flowing condition for the enjoyment of present and future generations.

- Humboldt County segments from Ferndale to Korbel, and around Humboldt Bay.

Rail-with-Trail Segments

- This southern section from Healdsburg (mile post 68.22) to Cloverdale (mile post 87), included in the transfer of freight rights to SMART, is well suited for rail-with-trail development. The corridor width in this section varies between 50 feet and 100 feet; can accommodate rail-with-trail infrastructure; and has no major physical, environmental, or cultural constraints. Trail development in this segment will be the responsibility of SMART and could be implemented in conjunction with SMART’s plans to develop passenger service to Cloverdale. This section would be recommended for priority project planning, design, and environmental review as possible next steps, if trail planning proceeds.
- Development of rail-with-trail along a stretch of the rail corridor surrounding Humboldt Bay is preferred. Local jurisdictions have already constructed rail-with-trail multi-use paths to the north and south of the bay, and the County of Humboldt has plans to construct the final rail-with-trail segment in the middle, closing the north-south gap. In addition, the rail corridor is currently used by the Timber Heritage Association for recreational rail operations (speeder crew car rides) in Eureka and Samoa. Additional proposals for a tourist excursion train and rail bikes have been discussed. Continuing to develop the rail-with-trail option around Humboldt Bay could expand the recreational and active transportation opportunities in the region and enhance economic opportunities.

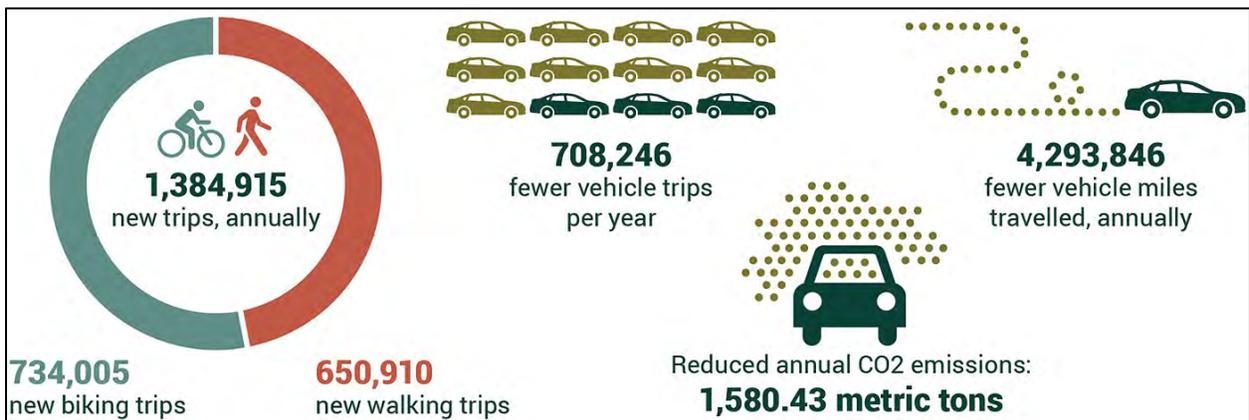


Figure 15. Economic and Social Benefits of a Fully Developed Trail

## [Economic and Public Health Benefits](#)

If the trail were fully developed, it is projected to spur economic activity in the region and generate roughly \$24 million in local revenue annually. Public health benefits include reduced vehicle trips and vehicle miles traveled; a reduction of 1,580.43 metric tons of carbon dioxide emissions; and an increase of 1,384,915 walking and biking trips annually. (See Figure 15)

## [Trail Cost Estimates and Project Phasing](#)

Planning-level cost estimates are based on assumptions about the planned trail facility and general cost factors applied to the associated infrastructure. Cost estimates are provided by corridor segment and by project priority, as well as for the entire corridor, and have been rounded to the nearest hundred dollars.

While an overall corridor cost estimate is provided, the total cost for fully developing the corridor would not be incurred all at once. Trail development is expected to be long-term, and costs would be spread over the course of decades, depending on project phasing and fund availability. The costs described below do not include estimates of environmental remediation efforts that may be required prior to construction. As previously discussed, remediation costs may be substantial.

## [Project Phasing](#)

Based on a review of the inventoried trail features and results of the condition and user demand assessments, development of the rail corridor has been divided into four logical phases. (See Figure 16.) These phases include projects that are grouped by their level of difficulty for development and anticipated trail demand, and include near-term, mid-term, and long-term implementation priorities. While these project phases represent priority projects when looking at the entirety of the corridor, the phases are not binding and can be modified as needed.



Figure 16. Project Phasing

### Full-Development Project Cost Estimates

While cost is not considered to be a measure of the technical feasibility of trail development, it is the main factor in determining whether and to what extent the trail can be built. This section presents cost estimates by project phase to illustrate how the trail could be developed over time, limiting the amount of investment required at any one time. For more detailed discussion see Chapter 5 of Appendix D, Part I, *Great Redwood Trail Feasibility, Governance, and Railbanking Report*.

Planning-level costs for trail development of the entire 252-mile corridor are estimated at:

- \$749,259,900 in 2020 dollars
- \$900,685,200 in 2025 dollars
- \$1,082,713,500 in 2030 dollars

Cost estimates were also calculated for each of the four project phases (segments grouped into near-term, mid-term, and long-term phases) described above. Total cost for each phase is a sum of the estimated budgets for each trail segment included in that phase. These cost estimates are organized by trail typology and include construction costs; planning and management costs; contingency; and escalation.

**Phase 1** has an estimated total cost of \$190,974,700 in 2020 dollars and \$275,967,000 in 2030 dollars. It includes 62 miles of urban trail, 24 small access points, and seven large access points. Route design alternatives could result in cost reductions of nearly \$11 million.

**Phase 2** has an estimated total cost of \$296,230,500 in 2020 dollars and \$428,065,900 in 2030 dollars. It includes 48 miles of urban trail, 13.7 miles of rural trail, and five small access points. Route design alternatives could result in cost reductions of nearly \$56 million.

**Phase 3** has an estimated total cost of \$194,628,100 in 2020 dollars and \$281,246,200 in 2030 dollars. It includes 62 miles of rural trail, seven miles of urban trail, and 11 small access points. Route design alternatives could result in cost reductions of nearly \$19 million.

**Phase 4** has an estimated total cost of \$67,826,500 in 2020 dollars and \$98,012,400 in 2030 dollars. It includes 22 miles of urban trail and four small access points, including one new long-span bridge. There are no route design alternatives.

Cost estimates are based on potential trail types that were applied to specific conditions along the corridor for cost estimating purposes with planning, design, management costs, and contingencies included. Percentages were used to estimate the planning, design, and management costs for the corridor, which include survey, technical studies, and engineering design; environmental analysis, documentation, and permitting; project administration; construction management; mobilization; and design services during construction. A 30-percent contingency amount was added to account for unknown factors that may influence the overall cost of the trail. The State Parks assessment estimates environmental costs of the trail as a soft cost or percentage of the construction costs. The cost to remediate environmental liabilities in remote locations (such as rail cars in the Eel River) has the potential to be extraordinary, and project-level costs have not been estimated. A detailed discussion of environmental liabilities begins on page 64, and additional studies would be needed to further refine all costs.

Potential reroutes of the trail outside of the rail corridor and onto surface roads to bypass areas with major geologic challenges or failing infrastructure provide opportunities to reduce costs. Potential reroutes were identified that could result in an estimated \$86 million in cost reductions.

For a full description of the assessment findings, trail segment feasibility results, and planning level cost estimates, please refer to Appendix D, Part I, Great Redwood Trail Feasibility, Governance, and Railbanking Report.

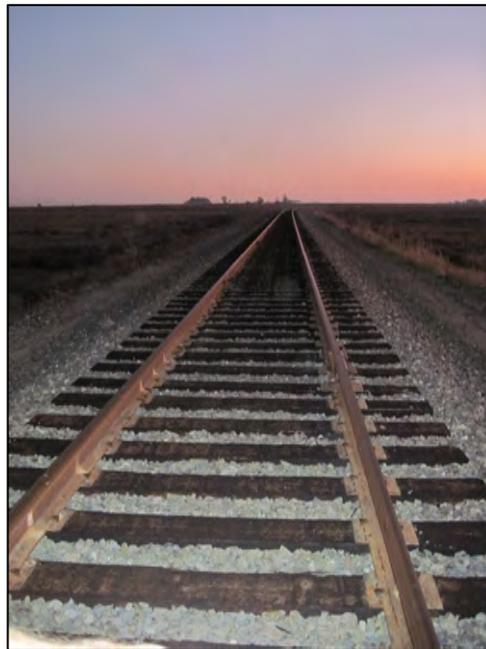


Figure 17. NCRA Corridor, Southern Section

## ENVIRONMENTAL LIABILITY

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The NCRA railroad corridor pre-dates both the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) by roughly 100 years and contains environmental waste contaminants deposited along the corridor which have been passed down through generations to its current owner, NCRA.

To understand the environmental issues, it is helpful to clarify terminology. In this report, the following terms are used:

- Remediation – This term is often used to describe the process of cleaning to its purest, natural form a site that has been found to have environmental contaminants.
- Mitigation – This term is used in reference only to projects and is a required element of NEPA and CEQA. It attempts to lessen the environmental impact of an infrastructure project by taking a separate action that would benefit the environment. A project could be required to both remediate and mitigate.
- Liability – In this project context, liability is referenced for legal risk, financial risk, and environmental remediation risk. Unless otherwise specified, liability is the assumption of responsibility for the risk, without necessarily having identified all possible risks. In the context of environmental liability, NCRA or its successor agency may be held responsible for the remediation (or the cost of remediation) of the rail corridor for known contaminants and contaminants discovered later. Environmental studies on portions of the NCRA corridor have been conducted and referenced in Appendix F. This process has identified many environmental hazards as an aggregate, but project-level studies will identify specific concerns and may result in additional cost. If NCRA or its successor refuses to accept this liability (where applicable), it could result in litigation.
- Planning-level cost estimates – Projects such as the Great Redwood Trail begin as ideas, which are then examined with enough detail to get a rough idea of the level of effort and cost required to bring the idea to fruition. This assessment report is that first flush, precursory examination; all costs, including environmental liability, are estimates from that high, planning-level vantage point. These cost estimates are then used to develop an overall budget and schedule for the life of the project. Planning-level estimates give project managers an idea of the economy of

scale the project will need, but there is too much variation in the estimate for it to be a completely accurate number.

- Project-level cost estimates – As the project moves forward and detailed environmental studies and design work are conducted, the planning-level cost estimates are amended and narrowed down to increasingly accurate, project-level cost estimates. These more-realistic estimates can be used to establish project budgets and seek funding.
- Preliminary analysis – As described with planning-level cost estimates, projects begin with a first look to determine if there are enough resources and strong enough justification to continue pursuing the project. The preliminary environmental analysis for this assessment examined existing reports and databases for known environmental concerns, in addition to information gathered by a field crew that walked the length of the corridor. This preliminary analysis allowed State Parks to determine areas of concern needing additional study. If the trail project moves forward, more-formal NEPA/CEQA studies and documentation will be necessary.
- Hazardous waste material – This term includes any industrial by-product or discarded commercial product that is potentially harmful to the environment or people and other living organisms because it is ignitable, corrosive, reactive, or toxic. In the NCRA corridor, this is anticipated to be mostly abandoned, decaying rail equipment and chemical contaminants that leaked or were dumped along the corridor during regular operations.

## Preliminary Analysis

NCRA has conducted project-level environmental remediation when required, but has not conducted a thorough, corridor-wide, environmental remediation effort. To accurately assess the level of contamination for the entire 252-mile corridor proposed for trail conversion, additional focused study will be required.

This assessment effort conducted a preliminary analysis for high-level, policy planning purposes only. Environmental studies, findings, and cost estimates included here represent a preliminary examination of the existing conditions visible in the corridor during field visits; literature reviews of prior environmental studies, databases, and consent decrees; cost comparisons with similar projects; and knowledge of current environmental regulation placed on state agencies conducting projects in this region.

Because of the level of uncertainty surrounding environmental liability through the corridor, it was assessed by 1) OSAE in the financial analysis (page 20 and

Appendix C), 2) State Parks in the trail feasibility analysis (Appendix D), and 3) Caltrans in a separate memo prepared for discussion purposes with the Task Force (Appendix F). An effort was made to complement other teams' studies, but there are some areas of overlap in the cost estimates. A comprehensive environmental study of the whole corridor is necessary to remove overlapping costs and narrow them down to corridor-wide project-level estimates.

Environmental liability assessed by State Parks includes planning-level soft costs for trail construction and general environmental studies, with some hazardous waste removal, but does not include potential wetland mitigation or detailed hazardous material clean-up (which Caltrans' addressed) or a number of other contingent liabilities (which OSAE analyzed). As part of its analysis, State Parks' assessment rolled environmental planning into its full-development planning-level cost estimates as described on page 61. These costs address only the 252-mile portion of NCRA's corridor currently proposed for use as the Great Redwood Trail (Healdsburg, Sonoma County to Korb and around Humboldt Bay, in Humboldt County).

OSAE identified areas of concern for potential liability due to environmental conditions. Cost estimates for these are itemized in Table 3 on page 27 and described in detail below. These items are applicable to NCRA's entire 316-mile right-of-way, including the portion proposed to be transferred to SMART. Caltrans' memo based its analysis on full build-out of the 252-mile trail corridor used in State Parks' report, including both the rail-to-trail and rail-with-trail portions, and follows the project phasing recommended by the State Parks analysis (page 61 and Appendix D).

## Financial Liability

Many NCRA depots and maintenance facilities along the rail line may need environmental clean-up, regardless of the corridor's future use. The following list of potential liabilities was identified by OSAE during its assessment and additional detail can be found in Appendix C, *Calculated Value of Net Assets Report*.

## Environmental Consent Decree

NCRA contracted with an environmental professional services firm to assess NCRA's level of compliance with the requirements, laws, and regulations pursuant to the Environmental Consent Decree and to develop a plan for regulatory approval for compliance. The estimated costs associated with future rail operations, clean-up, and remediation activities ranged from \$4.3 million to

\$6.9 million according to the assessment report dated July 2002 (see table 3, page 27). These costs have not been updated to 2020 market rates. It is unknown to what extent NCRA has fulfilled all obligations pursuant to the Environmental Consent Decree as of December 31, 2019.

### Eel River

Although no legal claims have been identified, additional liability may exist for environmental related issues involving abandoned rail cars and equipment in the Eel River and other sites. As described in table 3 on page 27, costs are unknown and need additional study to accurately estimate cost of removal. For more detail, please see Appendices C and D.



**Figure 18. Rail Cars and Collapsed Tunnel in Eel River Canyon**

### Local Jurisdiction Complaints

NCRA received a legal notice from the City of Eureka in December 2014 stating that the presence of rail equipment in Eureka's yard constituted a public nuisance under Eureka's Municipal Code. The City of Eureka required NCRA and a private party to remove all rail equipment from the Eureka yard. OSAE research and communication with the private party equipment owner indicated that the equipment was not removed as of December 31, 2019. This may result in monetary sanctions against NCRA. Further, in July 2015, a northern California news article reported that work to remove trains from the Eureka yard (known as the "Balloon track") was stopped due to workers becoming sick from exposure to contaminants. This may also present legal exposure to NCRA, or a successor agency. As described in table 3 on page 27, costs are unknown and need additional study to accurately estimate cost of removal. For additional detail, please see Appendix C.

### [Liquified Petroleum Gas](#)

NCRA faces unconfirmed potential costs and obligations associated with safety improvement of the hazardous material storage of liquefied petroleum gas cars stored in the Schellville Depot.

This potential liability was identified in a complaint against NCRA filed on May 28, 2019, with Sonoma County's Permit and Resource Management Department, Code Enforcement Division. Costs associated with the safety improvements may range from \$5.2 million to \$7.2 million according to the September 2019 complaint. (See table 3, page 27.)

Based on the Letter of Intent between NCRA, NWPCo, and SMART entered on February 15, 2017, NCRA agreed to assume all risks and fully indemnify, defend, and hold SMART harmless with respect to any claim, damage, or liability resulting from transporting hazardous materials on the tracks and/or storing liquefied petroleum gas at the Schellville Depot. This section of right-of-way is proposed to be transferred to SMART, as discussed beginning on page 71. For additional information, please see Appendix C.

### [Environmental Remediation and Mitigation](#)

Caltrans' North Region Division of Environmental Planning utilized State Parks' draft report as the basis for its analysis of the corridor. Caltrans approached this analysis from the perspective of a state agency required to comply with state and federal regulations and examined the environmental liability issues that could be anticipated for the Great Redwood Trail if the trail conversion project moves forward. Two main areas of concern for this corridor were identified: wetland mitigation and hazardous material remediation. These areas of concern were analyzed for planning-level costs, resulting in an overall environmental liability of \$4 billion for full-development of the 252 – mile trail corridor. This cost is dependent on project design, level of remediation required, and market costs at time of construction. Additional studies are required to get an accurate and detailed cost estimate. Caltrans' assumptions are described below, and costs are itemized by State Parks' trail development phases in Table 4. Further information on Caltrans' assumptions can be found in its memo (Appendix F).

### [Wetland Mitigation](#)

Wetland mitigation estimates are based on Caltrans knowledge of the North Coast region and the NCRA corridor specifically. The cost estimate of \$103 million relied on data gathered and reported in the State Parks' draft Great Redwood Trail Feasibility Study to determine locations where mitigation is likely to be

required. Wetland mitigation liability may be lessened if the trail project does not progress and the right-of-way continues to exist in its current form.

### Hazardous Material Remediation

Hazardous waste remediation focused on the potential contamination of an aquifer used for drinking and the possibility of soil and sediment contamination. Chemicals of concern include PCE, Arsenic, PCP, TPHs, heavy metals, petroleum (diesel, gasoline, and waste oils), chromium, PAHs, solvents, benzene, ethylbenzene, toluene, xylene, chlorinated hydrocarbons, non-petroleum hydrocarbons, pesticides, fumigants, dioxin/furans, heating oil, copper, lead, nickel, PCBs, and distillates. These chemicals are common contaminants for this type of land use and were identified in previous studies of the corridor.

Caltrans assumed that full remediation of the rail bed would be required before public trail construction could begin. This makes up the bulk of the cost estimate because if Caltrans were to undertake the trail project, the project would be subject to code requirements and would likely require removal of all ballast (aka gravel) from the railroad bed on the entire 252-mile corridor. The ballast would be treated as hazardous waste (if the railway ballast contains the concentrations of lead and arsenic typically found in ballast), which would require transportation to a cleaning facility and disposal. The trail proponent may be able to mitigate these costs if the resource agencies overseeing toxic substances and hazardous waste were to allow the ballast to remain in place, covered with clean soil or another hard surface treatment (aka "capping" the rail). Costs were estimated based on total removal of ballast for the entire 252-mile corridor.



Figure 19. Abandoned Debris in the Eel River Canyon

A second major cost assumed in this estimate relates to the accessibility of heavy equipment and whether it (and waste debris) could be delivered by truck or would require being airlifted to/from the site. Costs are provided for accessible and inaccessible areas. When calculating costs for ballast and tie removal, it was assumed that 50 percent of the project limit was accessible, and 50 percent was not.

For a full explanation of assumptions used, and a detailed breakdown of items included in the estimate, please see Appendix F.

**Table 4. Caltrans Environmental Liability Cost Estimate for the NCRA Corridor**

Item	Cost Estimate (Low)	Cost Estimate (High)
Wetland Mitigation	\$103,566,500	\$103,566,500
Hazardous Waste Remediation	\$3,960,342,000	\$4,007,700,500
<b>Whole Corridor Environmental Liability TOTAL</b>	<b>\$4,063,908,500</b>	<b>\$4,111,267,000</b>
<b>Per Mile Environmental Liability TOTAL</b>	<b>\$16,255,634</b>	<b>\$16,445,068</b>



**Figure 20. Deferred Maintenance of Tunnel in NCRA Corridor**

## FREIGHT RIGHTS IN THE SOUTHERN SECTION

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Section 17 of SB 1029 appropriates the sum of \$4 million to SMART for the acquisition of freight rights and equipment from NWPCo to ensure efficient provision of goods movement requirements in the corridor in the context of growing passenger service. NWPCo has agreed to accept this payment provision but is under no obligation to SMART or the State if another buyer were to make an offer before the transaction agreement is executed.

If the State does not take advantage of this unique opportunity, future capital costs to extend and increase passenger service in the context of a different freight operator may be prohibitive, putting expansion of passenger service on the existing corridor at risk. Using the SB 1029 appropriations to facilitate the acquisition is likely to result in significant cost savings.

### Rail Network Connectivity

The California Legislature created SMART in 2002 to operate passenger rail service in the Sonoma-Marín region. This publicly owned rail transit agency operates passenger rail from the Larkspur Ferry Terminal to the Sonoma County Airport and plans to extend its service north to Cloverdale. In addition, SMART owns railroad rights-of-way east from Novato through Ignacio to the Napa Junction at Lombard and has long-term plans to provide passenger rail service to alleviate congestion on State Route 37 (SR 37), a vital regional connector route between Marin and Contra Costa Counties and the Central Valley, that experiences high demand for business, freight, and recreational travel during weekday peak and weekend off-peak hours. SR 37's western terminus begins at its intersection with US 101, just north of Ignacio, and heads east, where it terminates at Interstate 80 in northern Vallejo.

The State has explored developing the east-west corridor for passenger rail transit to alleviate major congestion on SR 37. Caltrans' Traffic Concept Report for SR 37<sup>13</sup> describes long-term planning strategies that include considerations for multi-modal facilities and public transit options to help achieve the operational concept for the corridor. In addition, the 2018 California State Rail Plan<sup>14</sup> identified this corridor as a significant gap in the statewide passenger rail service network. Finally, SMART conducted a study in 2019 in partnership with CalSTA and

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<sup>13</sup> <https://hwy37.ucdavis.edu/files/upload/resource/TCR%2037-FINAL-SIGNED.pdf>

<sup>14</sup> <https://dot.ca.gov/programs/rail-and-mass-transportation/california-state-rail-plan>

Caltrans to determine the feasibility of rehabilitating existing rail infrastructure for passenger service between Novato and Suisun City. Currently, there is no full-corridor public transportation service in the corridor, and development of the rail network will help to fill this transit gap for the region.

The 2018 California State Rail Plan also identified the State's interest in the Novato - Napa line as a key segment required for the development of a SMART passenger rail link to Napa and Solano counties. Service goals as identified in the plan are intended to deliver service on strategic interregional corridors that provide critical connections for economic mobility and equitable access to jobs, housing, and medical facilities. The SMART corridor is a critical link for the region and state. Therefore, the 2018 California State Rail Plan set the following service goals:

- By 2022: Establish integrated express bus services to connect the communities north of Windsor with SMART and to connect the Napa Valley with intercity services in Solano County and Martinez.
- By 2027: Provide integrated regional rail service from Larkspur to Cloverdale, increasing the utility of the service and providing a rail link between northern Sonoma County and North Coast communities, including integrated express bus services between Napa County and Suisun-Fairfield.
- 2040: Provide half-hourly peak and hourly off-peak service between Cloverdale and Larkspur and hourly service between Suisun City and Novato, with timed connections to service between Cloverdale and Larkspur.

The acquisition of freight rights in the SMART corridor would secure a significant interregional transportation corridor and close a critical gap in the statewide rail network, as identified in the 2018 California State Rail Plan and the SMART Feasibility Study. The acquisition will foster a rail connection between the Solano and Sacramento regions to the North Bay Area and provide resiliency and redundancy along the congested and flood-prone SR 37 corridor.

## Operational and Capital Investment Efficiencies

A public transit agency owning both the passenger and freight rights consolidates control of the corridor. Split ownership of rights on the corridor not only increases operational costs for the public transit provider but can also cause delays and otherwise degrade performance. Because SMART does not own the freight easement, it cannot ensure that it receives a financial benefit from the freight operations on its track to offset increased maintenance costs. This arrangement

limits the ability of the passenger operator to efficiently operate a service that is convenient and attractive to passengers.

Currently, the right-of-way between Healdsburg and the Sonoma-Mendocino county line is owned by NCRA. Depending on how NCRA is dissolved and its assets disposed, this arrangement could cause complications for SMART. Common railroad industry practice when a publicly owned passenger service operator does not own the underlying right-of-way is for the host railroad to charge fees above and beyond maintenance and rehabilitation, as well as the cost of any requested improvements in the corridor. Often, the public agency incurs additional costs to pay for projects the host railroad wants completed, regardless of relevancy to the passenger improvements, and regardless of whether the freight operator will make significant use of the improvements. This is specifically relevant to the cost of capital investments that will be needed as SMART extends north to Cloverdale. With SMART owning the freight rights as well as the passenger rights, investments in infrastructure can be tied directly to their immediate usefulness for both freight and passenger movement, and not be invested in prematurely.

Increasingly, the State is moving towards access agreements, whereby the State, the operator, or another public entity pays the host railroad an access fee for dedicated time slots in the host's operations schedule. This is likely to reduce overall project delivery cost but still require payment to a third party. Additionally, there are delays in delivering projects through a host railroad as all modeling and service improvements must be approved by the host railroad. The proposed transfer of freight rights and right-of-way from NCRA to SMART in the southern section insulates the passenger rail service from this additional cost. Likewise, it helps to solidify its role on the east-west corridor and protect against future conflicts.

## Emergency Response

Exclusive ownership of the railroad corridor, including all associated rights-of-way and operations (freight and passenger) by a public passenger rail agency such as SMART would provide increased flexibility and sustainability for the railroad owner and operator. Passenger and freight railroads have different operating characteristics and passengers require on-time performance and useful schedules, whereas a small freight operation can be planned around the passenger schedule. By transferring all rights and ownership to SMART, SMART can better manage the railroad to prioritize on-time-performance and adapt schedules to meet changing market demands. Importantly, on the east-west corridor, SMART's exclusive ownership will also strengthen its important emergency

response role in transporting key personnel and meeting evacuation needs during public emergencies. SMART has been a critical part of the region's emergency response to wildfires in the North Bay in the past. It is anticipated that exclusive ownership of the railroad tracks and rights will provide necessary redundancy, resiliency, and emergency support for future climate change impacts, such as flooding and fire, or other emergency freight or passenger transportation needs.

## Secondary Benefits

SMART has established a successful public-private partnership with a broadband internet utility provider. Through this partnership, the utility can economically install fiber optic cable and SMART receives additional funding for rail rehabilitation. Full build-out of the SMART system promises to deliver broadband internet along with passenger rail service to rural communities in the northern part of Sonoma County. The current COVID-19 crisis has demonstrated that internet access is as important for daily life as any other utility. Development of the SMART passenger rail service would be a cost-effective way to deliver physical mobility together with broadband internet to rural Californians.

## Assets, Rights, Liabilities, and Abilities to be Transferred

SMART owns the real property from Corte Madera north to Healdsburg and east from Ignacio to the Napa Junction in Lombard, as well as passenger rights as far north as Willits. NCRA owns the real property from Healdsburg north to Humboldt County and the freight rights for both sections of right-of-way. (See Figures 1 and 4, on pages 2 and 16, respectively)

Using state funds, SMART will acquire the freight rights in the active SMART corridor and the east-west freight-only corridor between Ignacio and the Napa Junction (aka Napa River), near Lombard. It will also acquire, through a quit-claim deed from NCRA, both the real property and freight rights between Healdsburg and the Sonoma-Mendocino county line.

As described in the *Background* section of this report, NCRA contracts its freight rights to NWPCo, which is an active, low-volume, short-line, privately held, railroad company. NWPCo has agreed to transfer its rights to SMART, thereby transferring its 99-year lease with NCRA and ceasing its operations as a private rail enterprise south of mile post 89.

SB 1029 amended Public Utilities Code Section 105095 to give SMART the authority to provide both freight and passenger rail service. In May 2020, its Board of Directors adopted a Resolution to acquire the NWPCo freight contract and

manage its freight customers. During this transition period the following actions will, or have already, occurred.

- 1) SMART will enter into a Baseline Agreement with CalSTA that outlines the deliverables of the freight rights acquisition and provides for the transfer of funds to SMART.
- 2) SMART will enter into an Asset Transfer Agreement with NWPCo to solidify the terms of the agreement and describe assets, rights, responsibilities, and liabilities to be transferred.
- 3) NWPCo will formally transfer its freight operations to SMART. This is to include management of the existing freight customers; all freight equipment and railcars; maintenance responsibilities for the railroad right-of-way and crossing signals; and coordination responsibilities with local, state, and federal jurisdictions.
- 4) NWPCo will formally transfer its freight license, issued by the STB, to SMART for the designated right-of-way.
- 5) NCRA's Board of Directors adopted a Resolution in May 2020, to approve the transfer of freight rights for the entire SMART corridor south of Healdsburg and the transfer of real property between Healdsburg and the Sonoma-Mendocino county line to SMART.
- 6) SMART will conduct its own market and feasibility studies to explore continued and/or expanded freight service in its corridor.

While SMART is acquiring a private enterprise with the ability to generate revenue, it is also accepting additional responsibilities and costs. As a public agency, the passenger service operator will have the right to expand its freight customer base and use the profits from freight operations to help cover long-term maintenance costs on the entire rail line, including the freight and passenger portions of the right-of-way. Short-term maintenance, however, will require initial funding.

Measure Q, the voter-approved local ordinance that funds and governs SMART activities within the Counties of Sonoma and Marin, provides funding for the design, construction, implementation, operation, financing, maintenance and management of a passenger rail system and a bicycle/pedestrian pathway connecting the 14 rail stations from Cloverdale to Larkspur. It does not contemplate an east-west passenger rail service, and therefore, cannot fund activities in the Novato to Suisun City corridor without additional funding.

Maintenance activities on the freight-only right-of-way from Novato to the Napa River near Lombard are contractually assigned to NWPCo as its only active rail

operator, and some repairs have been deferred. While SMART is acquiring the NWPCo business, it is also assuming responsibility for an aging infrastructure needing an estimated \$10.5 million in one-time track and signal maintenance repairs and an estimated \$450,000 in annual flood, fire, track, and signal maintenance, as well as potential safety repairs.

## Cost

As previously described, Section 17 of SB 1029 appropriates \$4 million to SMART for the purchase of freight rights from NWPCo. In addition, the Legislature appropriated \$2 million<sup>15</sup> in Assembly Bill 74, Budget Act 2019-20 to CalSTA for SMART to be used on safety upgrades and maintenance upon acquisition of a freight contract.

Assembly Bill 74, Budget Act of 2019-20 also appropriates \$8.8 million for expenses related to dissolving NCRA, including operations, maintenance, and the retirement of outstanding debts. CalSTA was given discretion over the use of those funds and plans to use \$2.4 million to retire the Federal Railroad Administration RRIF Loan. Settling this outstanding debt will release both NCRA and NWPCo, as co-borrowers, from their ongoing quarterly payment obligation to the Federal Railroad Administration.

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<sup>15</sup> Item 0521 – 101 - 0001 in Assembly Bill 74, (Ting) Budget Act of 2019



## SCENARIO ANALYSES

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This section describes five plausible scenarios considered by the Task Force during this assessment and lists other alternative options for further exploration.

Scenario 1: NCRA is dissolved, and its right-of-way is liquidated

Scenario 2: NCRA is dissolved, and its right-of-way is converted to a trail

Scenario 3: NCRA is not dissolved, and its mission is amended

Scenario 4: Do nothing

Scenario 5: A new railroad company buys out NCRA

It is important to note that these scenarios address the northern portion of the NCRA rail line, from the Sonoma-Mendocino county line north to Humboldt Bay and Korb. The southern portion, including real property and freight rights south of the Sonoma-Mendocino county line and east from Ignacio to Lombard is proposed to be transferred from NCRA to SMART, as described previously in this report.

### Considerations for Dissolution of NCRA

Scenarios 1, 2, and 5 contemplate dissolution of NCRA. If one of these options is chosen, it will be necessary to address the following issues.

#### Outstanding Debt

As of December 31, 2019, total known liabilities were \$7.4 million. In addition, one outstanding lawsuit was settled by NCRA in May 2020, which will accrue interest until it is paid. NCRA does not have a revenue stream to cover these debts.

#### Liquidation

Liquidating NCRA's real property and equipment to pay off these debts requires consideration of the following.

1. All property was purchased with state and federal funds. The Funds Transfer Agreements governing those purchases contain language which requires the property to remain in public transportation use or Title IV projects *in perpetuity*. Alternatively, in the event of sale or other alienation of the property, the State and Federal Highway Administration may demand a return of their *pro rata* share of fair market value or may permit their *pro*

*rata* shares of fair market value be redirected towards other eligible projects. Generally, south of Willits, the State's share is 10 percent and north of Willits is 100 percent. When NCRA has sold excess property in the past, the CTC has sought reimbursement while the Federal Highway Administration has not. See page 32 for details.

2. This assessment did not include an appraisal or market analysis of the potential revenue that could be generated from the liquidation of assets or of the portion of proceeds that could be retained after the State has been reimbursed. Therefore, additional study would be needed to determine if this revenue would be enough to satisfy the outstanding debt, while also allowing state and federal government programs to recoup their investments.
3. This assessment effort did not include acquisition of individual property title reports and therefore, this assessment report does not have documentation of property liens. However, it is anticipated that liens exist on certain parcels, and in its review of contracts, OSAE did identify equipment that was offered as collateral by NCRA. Specifically, this equipment includes 33 rail cars that are the source of NCRA's most reliable revenue for agency funding.

### [Conversion to Trail](#)

If the property is used for public transportation purposes and the corridor is converted to a trail, the successor agency will likely not assume all the outstanding debts of the dissolved rail entity. (Some liabilities, such as environmental, may remain with the right-of-way.) Absent available funding, a dissolving agency such as NCRA with outstanding debt will likely be forced into bankruptcy. This option is discussed in more detail with Scenario 4, beginning on page 88.

### [Lease Agreements and Encroachments](#)

With the transfer of real property and freight rights south of the Sonoma-Mendocino county line, SMART will assume responsibility for maintaining any lease agreements that may exist at the time of NCRA's dissolution. Lease agreements on the 252-mile corridor that spans Humboldt, Trinity, and Mendocino Counties, however, will require legal review.

NCRA maintains approximately 127 paid property lease agreements. These include encroachments from neighboring properties or municipalities that may use excess NCRA land or at-grade-crossings. They also include permanent utility leases, such as AT&T phone lines, PG&E power lines, and cell towers. While NCRA established some leases on its own, it did contract with a professional property

manager, by the name of FEC, for several years. This contract requires payment to FEC of 30 percent of all fees collected on leases negotiated by FEC on NCRA's behalf. The lease payments from all sources constitute NCRA's main source of local funding.

In addition, there are unpermitted encroachments that NCRA has not pursued or abated. Appendix D, *Great Redwood Trail Feasibility, Governance, and Railbanking Report* describes encroachments encountered during field assessment of the corridor, and a list of permitted encroachments was provided by NCRA. This assessment did not cross reference the lists. Dissolution activities will require identifying, addressing, and enforcing property boundary lines.

### *Liquidation*

If NCRA's right-of-way is liquidated at the time of its dissolution, existing lease agreements will need to be assessed on an individual basis depending on the underlying property status. Property that is owned in fee may be offered to the leaseholder to purchase. Property that is owned as a railroad easement may revert to the underlying property owner, who will need to assume or cancel existing lease agreements.

### *Conversion to Trail*

If NCRA's right-of-way is converted to a trail, these agreements will transfer to the successor agency for continued administration and could be a source of minimal agency funding.

### *Licenses and Permits*

As an "active" railroad, NCRA is governed and regulated by the Surface Transportation Board, the Federal Railroad Administration, the California Public Utilities Commission, and various resource-permitting agencies. If the rail line north of the Sonoma-Mendocino county line is dismantled, either to be liquidated or converted to a trail, all three government agencies must be consulted and involved in the process.

- The STB is an independent federal agency charged with the economic regulation of various modes of surface transportation, primarily freight rail. For a railroad to dissolve, it must also file a legal petition for abandonment through the STB<sup>16</sup>. The process is lengthy and involves a public comment period where shippers, receivers, and others have an opportunity to oppose the petition for abandonment. NWPCo currently has fewer than ten regular shippers that it services, and all freight is moved on the southern portion of rail line owned and

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<sup>16</sup> In accordance with 49 CFR Part 1152.

managed by SMART. The freight license on the northern portion of the line would need to be addressed as part of the abandonment process and may be denied by the STB.

- The Federal Railroad Administration issues, implements, and enforces railroad safety regulations; invests in rail corridor development and rehabilitation; and is involved in railroad research and technology development.
- The California Public Utilities Commission is the state agency that oversees rail safety in California. The oversight it provides can be broken down into three areas: 1) Railroad Safety; 2) Rail Transit Safety; and 3) Rail Crossing Safety.

### Environmental Liability

The NCRA rail corridor contains several types of environmental liabilities which may have to be addressed regardless of a future rail or trail project. As discussed in the *Environmental Liability* section of this assessment report, starting on page 64, overall environmental liability is estimated to be around \$4 billion.

While removal of abandoned equipment and rail cars is a high priority for all scenarios considered, the level of subsurface remediation needs more investigation than could be performed during this assessment. It is important to note when considering dissolution of NCRA that the sale of right-of-way containing hazardous material may be complicated and costly and may not relieve NCRA of the liability.

### Liquidation

To sell property in California when environmental contamination is a known possibility, a due diligence assessment should be done. Based on the assessment, 39 locations along NCRA's right-of-way were identified to as containing hazardous material. In addition, there may be future locations discovered which, like the known sites, will need further examination and possible remediation prior to liquidation. As the prior property owner, NCRA may be held liable for the cost to remediate contaminants, which may result in a negligible net profit from the sales.

### Conversion to Trail

While the station sites identified in the Environmental Consent Decree will need to be remediated, and abandoned equipment removed from the Eel River and along the line, a full remediation may not be required along most of the corridor. Full remediation includes removal, cleansing, and disposal or return of ballast from the railbed. Areas where the track remains intact may not need full remediation and may be capped (covered with soil) instead. More-detailed project design and environmental studies will determine the exact level of contamination and

remediation required for the proposed use. Please see the *Environmental Liability* section starting on page 64 for more detail.

### [Transitional Administration](#)

Given NCRA's tenuous financial circumstances, it has been contemplated that NCRA may dissolve immediately and its holdings transferred to an interim agency for administration and to manage the liquidation or railbanking process. This option may complicate rather than simplify matters because of NCRA's outstanding debt, potential environmental liability, known and unknown litigation, and numerous lease agreements. Therefore, if NCRA is dissolved, it would be prudent to have a plan in place to address all outstanding issues as well as to manage, liquidate or transfer its assets.

### **Scenario 1: NCRA is Dissolved, Right-of-Way is Liquidated**

In addition to the dissolution considerations described above (outstanding debt, lease agreements and encroachments, licenses and permits, and environmental liability), there are conditions unique to liquidation that must be considered.

### [Future Rail Opportunities on North Coast Will Be Dissolved Along with NCRA](#)

Acquisition of a contiguous corridor that has low sloping grades, meandering curves conducive to railroads, and connects the Bay Area with Humboldt Bay was difficult in the 1880's due to private property ownership and existing development. Contemplating the possibility of recreating this corridor at some point in the future is daunting. If the NCRA right-of-way is liquidated, the likelihood of acquiring a similar corridor for any use is expected to be astronomically more expensive, time consuming, and complex than retaining the existing corridor.

This policy decision will have far reaching effects for future freight and passenger rail, as well as the current proposed interim use as an active transportation commuter and recreational path.

### [Title Searches & Reversionary Clauses](#)

If the corridor is liquidated, a detailed examination of individual title reports will be necessary. Based on the DGS assessment, there are more than 2,800 parcels that will need to be reviewed for reversionary clauses prior to disposition. This is discussed in detail on pages 29 and 35.

### Sale of Property Owned in Fee

As previously discussed on page 32, fair market value proceeds from the sale of property and equipment purchased with public funds must be returned to the State in the *pro rata* proportion used in the original acquisition (or directed to eligible public transportation projects) and may result in a negative net value when assets are liquidated.

### Existing Lease Agreements and Contracts

NCRA maintains many long-term lease agreements and contracts with public utilities, local jurisdictions, private property owners, and other railroads. These agreements may be transferrable to the new owner and will need to be assessed on an individual basis. There may be zoning restrictions enacted by local jurisdictions to protect existing permitted infrastructure (i.e. constructed rail-with-trail segments, and public utilities) that could limit legal uses of the liquidated right-of-way. Federal regulations may govern the assignment or transfer of contracts, depending on their substance. Specific contract review and concomitant research is necessary to resolve this issue.

### Impacts on the State

#### Rail Connectivity

Liquidation of the NCRA right-of-way would eliminate freight and passenger railroad service possibilities in the existing rail corridor through Humboldt, Trinity, and Mendocino Counties from the Bay Area to Humboldt Bay. Liquidation would eliminate a contiguous transportation route that could serve multi-modal purposes, such as an active transportation commuter path and recreational trail, as well as a possible alternate parallel route to US 101 in the region.

#### Cost to State vs Cost to Local Jurisdictions

Because it is not clear if NCRA is a "local" or "state" agency, or a "special district" it becomes difficult to determine which jurisdiction would manage liquidation of the right-of-way. Liquidation is further complicated because NCRA is a regional railroad with federal oversight under the Federal Railroad Administration and the Surface Transportation Board.

If the right-of-way were to convert to local control, as it does for other local agencies or special districts, the state Government Code provides for the management under The Cortese-Knox-Hertzberg Local Reorganization Act of 2000 (Government Code Section 56036, et seq.). This statute defines a "district" as "an agency of the state, formed pursuant to general law or special act [*id est* Cal. Gov. C. § 93020 et seq.], for the local performance of governmental or

proprietary functions within limited boundaries and in areas outside distinct boundaries when authorized... pursuant to (Government Code) Section 56133<sup>17</sup>".

Because Local Agency Formation Commissions (LAFCO) are organized by county, all four counties with NCRA right-of-way (Humboldt, Mendocino, Trinity, and Sonoma) would have to participate. The individual LAFCOs would need to coordinate and either 1) reach a consensus that one county would take the lead management role or 2) Balkanize the alignment, which would complicate any attempt to railbank.

Alternatively, if a state-legislated railroad with federal oversight dissolves, management is likely to fall back on the State. Generally, DGS takes on management of abandoned state-owned right-of-way. Considering the length of the railroad and complicating factors, this would be a significant new responsibility for DGS.

## Scenario 2: NCRA is Dissolved, Right-of Way Converted to a Trail

In addition to the dissolution considerations described above (outstanding debt; lease agreements and encroachments; licenses and permits; and environmental liability), there are conditions unique to conversion to a trail that must be addressed.

### Designating a Successor Entity and Determining Effective Trail Governance

Before railbanking and converting the right-of-way to a trail can be pursued, a trail manager must be identified. As described in the *Governance Structure Options* section starting on page 41, the trail management entity, or successor agency, must have enough resources to: 1) handle the railbanking process; 2) maintain the 252-mile corridor, including weed abatement and emergency repairs; 3) maintain existing lease and contractual agreements; and 4) work with local, state, and federal agencies to properly study, remediate, and construct the trail.

As NCRA's organizational structure has shown, the successor entity will need financial support if it is to be successful in its ongoing mission to convert the rail to trail. Please refer to Appendix D, *Great Redwood Trail Feasibility, Governance, and Railbanking Report* for additional details.

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<sup>17</sup> Cal. Gov. C. § 56036(a)

### [Railbanking Process and Transfer of Assets/Liabilities to a Successor](#)

Due to the property ownership complications described earlier, specifically the reversionary clauses, NCRA's right-of-way will need the additional protections afforded a railbanked corridor and financially viable successor agency before it is converted from a rail to a trail corridor. If this step is missed, the corridor is anticipated to lose significant gaps in ownership to underlying property owners, and the proposed trail would abruptly end at the property line or be forced to find alternate routes around the obstructions. Trail proponents would be met with additional complications and cost, while out-of-way travel would significantly increase for trail users, including commuters. Please see Appendix D, *Great Redwood Trail Feasibility, Governance, and Railbanking Report* for additional details.

### [Environmental Hazards of Converting a Railroad to a Trail](#)

Trail design is a significant factor in determining the level of environmental remediation required. Allowing members of the public to walk on former railroad grades and infrastructure may expose them to potential environmental hazards that they would not be exposed to otherwise. If the rail corridor is converted to a trail, a master planning process would include developing preliminary plans and design leading to the initiation of environmental studies. The environmental hazards identified in this assessment (*Environmental Liability*, starting on page 64) are based on previous studies and observed conditions during field visits. Further detailed assessments will be necessary for each section of trail.

### [Trail Master Planning, Stakeholder Involvement, and Cost](#)

Before additional environmental studies or trail conversion can take place, NCRA's successor agency will need to develop a thorough trail master plan. This – 1-year to –3-year process will allow trail proponents to work with stakeholders on identifying opportunities and constraints; establish project development partnerships; and develop an overall theme for the trail; or sections of the trail. It must also identify a funding source to cover the expenses associated with trail development and eventual trail construction. See Appendix D, *Great Redwood Trail Feasibility, Governance, and Railbanking Report* for additional detail.

### [Impacts on the State](#)

#### [Rail Connectivity](#)

Scenario 2 proposes to stop all railroad services north of the Sonoma-Mendocino county line. Rail has not operated in this section of the corridor for 25 years, so rail connectivity concerns that currently exist will continue. It would be beneficial to

the state's rail network in the long-term to preserve and maintain NCRA's right-of-way through the railbanking process for future railroad use when it becomes economically viable to rehabilitate freight and/or passenger rail in the region.

#### *Public Health and Greenhouse Gas Emissions*

Currently, trains are not running in the corridor or emitting greenhouse gases on the northern segment of NCRA's rail line. Therefore, conversion of the rail to a trail will have a negligible impact on air emissions. However, the trail would have public health benefits. As an easy-access multi-use commuter and recreational trail, this active transportation corridor is estimated to attract approximately 1.4 million annual trail users, or 3,800 daily users. Please see the discussion *Economic and Public Health Benefits* on page 60 and Appendix D, for additional detail.

#### *Cost to State vs Cost to Local Jurisdictions*

As discussed previously in the *Governance Structure Options* Section starting on page 41 and in more detail in Appendix D, *Great Redwood Trail Feasibility, Governance, and Railbanking Report*, the organizational structure chosen for the trail management agency will determine costs to the State versus costs to local jurisdictions. For Scenario 2, which is to convert the rail to a trail, it is important for the project's success to establish a strong, fiscally viable, successor agency that has the staff resources to meet its mandate.

### **Scenario 3: NCRA is Not Dissolved, and its Mission is Amended**

Another potential scenario involves amending the legislative mandate to allow NCRA to railbank its own right-of-way and convert it to a trail. See the discussion starting on page 49 and Appendix D, *Part II*, for a detailed discussion of NCRA's existing governance structure.

In this scenario, NCRA is both the railroad owner and the trail management successor agency. NCRA would need to file abandonment of the railroad with the STB and then proceed with the Railbanking process. While the Task Force found no legal issues to preclude NCRA from taking this action, it did identify the following issues to address for a successful trail development project.

#### Staff Expertise

During the year and a half that this assessment was being conducted, NCRA's Board of Directors underwent a complete overhaul, with new members having knowledge or experience with trails rather than railroad and freight industries.

Staffing has also undergone some changes, with NCRA's long-time legal counsel being replaced with County Counsel from Sonoma County.

NCRA maintains two full time staff (Executive Director and Administrative Assistant) with additional support from on-call contractors (accountant, engineer, legal, property management etc.). See Appendices B and D for more detailed information on the finances and existing governance structure of NCRA.

For a trail management agency to successfully railbank and implement a trail in NCRA's corridor, it would need to hire staff with expertise in environmental studies, public outreach, master trail planning, and trail construction. While much of the specialized work could be contracted out, it is estimated that NCRA would still require in-house staff with subject matter knowledge to adequately manage the contracts and oversee the effort.

However, NCRA's existing local revenue may not be sufficient to support the necessary skilled and professional staff. (See page 49 for additional information.)

### [Capital Project Funding](#)

With a new mandate focused on trails, NCRA could qualify to apply for capital project funding that it has not had access to in the past. Because NCRA will be a new grantee to these state and federal programs, it is anticipated that NCRA would need to submit to pre- and post- award audits. NCRA previously received a designation of "High-Risk Grantee" by Caltrans Office of External Audits and Investigations and would need to demonstrate effective financial management to be competitive for capital funding.

### [Other Issues](#)

As described in the first two scenarios, NCRA, the trail manager, would need to address the following:

1. Outstanding Debt
2. Lease Agreements and Encroachments
3. Licenses and Permits
4. Environmental Liability

### [Structural Adjustment of NCRA](#)

As described in Part II, Appendix D, *Great Redwood Trail Feasibility, Governance, and Railbanking Report*, NCRA's creation left its staff with the challenge of rehabilitating an aged and decrepit railroad with no dedicated funding source.

The result was an ineffective, quasi-governmental agency that limped along on a shoestring budget for nearly 30 years.

If NCRA is expected to shift gears and take on a new trail management mandate, it is vital that NCRA be restructured to avoid the management and oversight problems discussed starting on page 49 and in Appendix D, Part II. A restructured NCRA should 1) clarify the type of entity it is (local, state, private, special district etc.); 2) identify a source of funding to satisfy all outstanding debt; 3) identify a reliable funding source to adequately cover ongoing staffing and maintenance needs; and 4) identify potential sources of capital project funding. Any public fund involvement should include an oversight agency, be auditable, and assist NCRA to lift its “High-Risk Grantee” designation from Caltrans.

#### Scenario 4: NCRA Maintains Status Quo

If NCRA is not dissolved, sold, or converted to a trail manager, it is reasonable to assume that NCRA could be forced into bankruptcy. With a calculated net value of (-) \$7.2 million, a lack of revenue generating options, a growing list of potential litigants, and a shifting political environment, it is not likely that NCRA will continue to survive on its own.

A Chapter 9 bankruptcy filing could allow NCRA to retain its assets. However, it would need to establish itself as a “municipality” as defined in federal Bankruptcy Code 11 U.S.C. §101(40). Alternatively, a Chapter 11 filing for corporations may require an organizational restructuring and liquidation of assets, in which case, the rail corridor, and the State’s investment (\$102 million over the last 30 years), could be lost through liquidation by the trustee. A bankruptcy lawyer should be consulted for more detailed information.

Creditors affected by a bankruptcy proceeding are described in the *Financial Assessment* section starting on page 20 and detailed in Appendix C, *OSAE Calculate Value of Net Assets Report*. For the most part, debt holders are independent contractors and small, disadvantaged businesses, with one exception; the Federal Railroad Administration RRIF Loan. While the State is not a co-borrower on the loan, it is not advisable to allow the loan to default.

Deferred maintenance along the corridor would continue to challenge local jurisdictions. Weed abatement, for example, is often conducted by cities and counties on NCRA’s right-of-way to reduce fire hazard and vagrancy, which NCRA is billed for after the fact.

Local jurisdictions in Humboldt and Mendocino counties are actively planning and building rail-with-trail segments on NCRA right-of-way. Several segments

have been completed within the last few years and more are close to construction. As described on page 59, it is anticipated that within the populated areas around Humboldt Bay, and within the cities of Ukiah and Willits, local jurisdictions will continue to implement rail-with-trail projects.

Finally, environmental rehabilitation at station sites and in the Eel River Canyon are expected to continue being unaddressed.

### Scenario 5: New Railroad Buys Out NCRA

NCRA could sell its right-of-way to a private rail operator. However, with no strong economic draw on the north coast, the associated environmental liability, and costs to rehabilitate the line, the probability of a private railroad company acquiring NCRA is low. The Task Force did not analyze this scenario and no interested parties reached out during the assessment period.



Figure 21. Overgrown foliage



Figure 22. Scenic Eel River Canyon

## CONCLUSION

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This assessment examined NCRA's known assets and liabilities to inform the Legislature and provide alternatives for dissolving the railroad, dispensing its assets, addressing its liabilities, and examining the constructability of a Great Redwood Trail on the NCRA alignment.

OSAE conducted a *Calculated Value of Net Assets* assessment (Appendix C) by examining NCRA's financial and inventory records; reviewing existing contracts, lease agreements, and legal settlements; and estimating contingent liabilities where possible. OSAE concluded that NCRA has a negative calculated value of net assets of (-) \$7.2 million as of December 31, 2019.

The State Parks assessment (Appendix D) evaluated the feasibility of converting the railroad line to a 252-mile multi-use trail and examined options for successor agency governance structures. The assessment included an examination of physical, environmental, and cultural constraints as well as opportunities and planning-level cost estimates. State Parks concluded that although the NCRA railroad corridor is conducive to trail construction and would provide a scenic tourist attraction and active transportation commuter route, the proposed Great Redwood Trail presents significant engineering challenges and high costs. Planning level, full-buildout cost estimates for the entire trail are approximately \$1 billion with a cost reduction potential of \$86 million. These estimates do not include potentially significant environmental remediation costs estimated at \$4 billion that may be required prior to project construction. State Parks also concluded that a central governance structure is preferred to most efficiently meet the railbanking requirements to manage and maintain a multi-jurisdictional trail. A central governing agency should own the entire corridor, have a clear reporting structure, and have a consistent annual funding stream.

The Department of General Services compiled two databases, 1) NCRA – Fee Right-of-way BOE Surveyor Maps Reference, and 2) NCRA Agreements and Contracts. The first database includes 1,800 lines of parcel data for NCRA's right-of-way. The second database is focused on NCRA's agreements and contracts. Both databases have been converted to Adobe Acrobat and are available for viewing on the project website: <https://calsta.ca.gov/subject-areas/reports>.

The five scenarios explored and assessed consider the dissolution of NCRA, the significant fiscal and legal challenges, and the potential to change the landscape of rail transportation on the North Coast for many years to come.

While the proposed Great Redwood Trail would require significant capital expenditures to restore NCRA right-of-way for use as a trail, it would preserve the rail corridor for future rail use and provides a unique active transportation route for local commuters and recreational tourists.

## Next Steps

Because NCRA was created by legislation, its dissolution will likewise require legislation. In addition to dissolving or recasting NCRA, dissolution legislation should address whether to liquidate, sell to another railroad company, or railbank the right-of-way; identify or create a successor trail management agency with a clearly defined governance structure and oversight mechanism; and identify a reliable revenue stream to support that agency. NCRA's right-of-way spans five counties and any changes in use will directly or indirectly affect residents of the entire North Coast region. Prior to liquidation or conversion of the right-of-way, it would be prudent to incorporate stakeholder concerns into the next phase of the project.

While NCRA's fate is considered by the Legislature, NCRA will need to continue to manage the right-of-way, honor existing lease agreements, and complete the railbanking process together with a successor agency.

This report and all appendices are available to the public on the CalSTA website at: <https://calsta.ca.gov/subject-areas/reports>

Hard copies of this report can be requested from CalSTA at (916) 323-5400.

## APPENDIX A.

### Statutory Reporting References

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#### GOVERNMENT CODE 13978.9

#### TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA

#### DIVISION 3. EXECUTIVE DEPARTMENT

#### PART 4.5. TRANSPORTATION AGENCY

#### CHAPTER 1. General Duties and Powers

**Section 13978.9** (a) Upon the appropriation of moneys by the Legislature for these purposes, the Transportation Agency, in consultation with the Natural Resources Agency, shall conduct an assessment of NCRA to provide information necessary to determine the most appropriate way to dissolve NCRA and dispense with its assets and liabilities. The Transportation Agency shall report to the Legislature before July 1, 2020, on its findings and recommendations from the assessment. The report shall include, but not be limited to, all of the following:

(1) An assessment of NCRA's debts, liabilities, contractual obligations, and litigation.

(2) An assessment of NCRA's assets, including property, rights-of-way, easements, and equipment.

(3) An assessment of NCRA's freight contractor lease, including the contractor's assets and liabilities to the extent that information is available.

(4) A preliminary assessment of the viability of constructing a trail on the entirety of, or a portion of, the property, rights-of-way, or easements owned by NCRA, and recommendations relating to the possible construction of a trail, including both of the following:

(A) Options for railbanking and the governance structure or ownership structure for a new or successor entity that is necessary to railbank property, rights-of-way, and easements along the rail corridor.

(B) A preliminary assessment of which portions of the terrain along the rail corridor may be suitable for a trail.

(5) An assessment of the options for transferring the southern portion of the rail corridor to the Sonoma-Marín Area Rail Transit District and recommendations on the specific assets and liabilities that could be transferred, including rights or abilities to operate freight rail.

(b) The Transportation Agency and the Natural Resources Agency may request the Department of General Services, the Department of Finance, or any department within their agencies, or contract with other entities, to perform the

work the agencies deem necessary to carry out the duties described in this section. Any work done by the Department of General Services, the Department of Finance, or any department within the agencies pursuant to such a request may be conducted using the power and authority of the requested department.

(c) The Transportation Agency shall prioritize the assessment of the southern portion of the rail corridor and may separately report information related to the potential transfer of the southern portion of the rail corridor to the Sonoma-Marín Area Rail Transit District. It is the intent of the Legislature that information and recommendations regarding the potential transfer of the southern portion of the rail corridor to the Sonoma-Marín Area Rail Transit District be provided as expeditiously as possible and not be delayed due to the potential complexity of assessing the northern portion of the rail corridor.

(d) (1) A report to be submitted pursuant to this section shall be submitted in compliance with Section 9795.

(2) Pursuant to Section 10231.5, this section is repealed on January 1, 2024.

## GOVERNMENT CODE 93000-93005

### TITLE 12. NORTH COAST RAILROAD AUTHORITY

#### CHAPTER 1. General Provisions

**Section 93000.** This title shall be known and may be cited as NCRA Closure and Transition to Trails Act.

**Section 93003.** The Legislature finds and declares that it is in the public interest to dissolve the authority, and to transfer its rights-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.

## GOVERNMENT CODE 93010-93012

### TITLE 12. NORTH COAST RAILROAD AUTHORITY

#### CHAPTER 2. Creation of Authority

**Section 93010.** (a) The authority is hereby created, having a service area comprising the Counties of Humboldt, Mendocino, Sonoma, and Trinity.

(b) The County of Marin may elect to join the authority and, if that election is made, the authority is expanded to include that county.

## GOVERNMENT CODE 93020-93025

### TITLE 12. NORTH COAST RAILROAD AUTHORITY

#### CHAPTER 3. Powers and Duties of Authority

**Section 93020.** (a) The authority has all of the following powers:

(1) To acquire, own, operate, and lease real and personal property reasonably related to the furtherance of the purposes of this title, the planned transfer of all of its assets, and its dissolution. Any sale, easement, or lease entered into by the authority after August 1, 2018, shall be approved by the California Transportation Commission.

(2) To operate railroads along the rights-of-way where they were in operation on January 1, 2018.

(3) To accept grants or loans from state or federal agencies.

(4) To employ an executive officer, other staff, and consultants deemed appropriate for support of the activities of the authority, to further the purposes of this title.

(b) The authority shall do all of the following:

(1) In coordination with state agencies, immediately begin planning for the transfer of all of the authority's assets and liabilities and for the dissolution of the authority.

(2) Cooperate with its freight contractor to continue freight operations along the rights-of-way where they were in operation on January 1, 2018.

(3) Cooperate with, and provide information upon request to, the Transportation Agency, Natural Resources Agency, or other state or local agencies or contractors working at the direction of the Transportation Agency or Natural Resources Agency.

(4) Cooperate fully with the assessment conducted pursuant to Section 13978.9.

**Section 93021.** The authority may acquire, own, lease, and operate railroad lines and equipment, including, but not limited to, real and personal property, tracks, rights-of-way, equipment, and facilities, to further the purposes of this title.

**Section 93022.** The authority shall cooperate with the assessment conducted by the Transportation Agency and Natural Resources Agency pursuant to Section 13978.9, and shall provide access to all authority records, files, documents, accounts, reports, correspondence, and financial affairs to the agencies, and any entity conducting the assessment for the agencies, pursuant to Section 13978.9.

## **PUBLIC UTILITIES CODE 105095**

### **DIVISION 10. TRANSIT DISTRICTS**

#### **PART 16. SONOMA-MARIN AREA RAIL TRANSIT DISTRICT**

##### **CHAPTER 4. Powers and Functions of the District**

##### **ARTICLE 4. Rail Transit Facilities and Services**

**105095.** The district may provide a rail transit system for the transportation of passengers and their incidental baggage by rail and provision of freight service by rail.

## APPENDIX B.

### Public Investment in the NCRA Rail Corridor

The California State Legislature has committed more than \$100 million to the NWP line since NCRA was created in 1989. The following breakdown identifies the source and year of funding; the dollar amount programmed and allocated; and the purpose for the expenditure. These historical records of fund disbursement have been gathered by the Task Force and verified by Caltrans, California Transportation Commission, and NCRA. Public Fund Investment in the NCRA Rail Corridor 1989-2020.

**Table 5. Public Fund Investment in the NCRA Rail Corridor 1989-2020**

Date	Purpose	Fund	Source	Agency	Amount
<b>Property and Equipment Acquisition</b>					
1991-1992	<b>Willits to Korbelt</b> <i>Title acquired in the name of NCRA</i>	Prop 116	State	NCRA	\$ 6,100,000
1996	<b>"Willits Segment"</b> (Healdsburg to Willits and 4 stations) <i>Title acquired in the name of NCRA</i>	TCI / TP&D	State	NCRA	\$ 596,031
1996	<b>"Willits Segment"</b> (Healdsburg to Willits) <i>Title acquired in the name of NCRA</i> ; and <b>"Healdsburg Segment"</b> (Novato to Healdsburg) and <b>"Lombard Segment"</b> (Ignacio to Lombard) <i>Title acquired in the name of NWPRA</i>	Q-Fund Loan	Fed	NCRA	\$ 12,000,000
2003	36 Freight Rail Cars, Emergency Repairs to Black Point Bridge	FEMA / OES	Fed	NCRA	\$ 7,900,000
1995	<b>"Healdsburg Segment"</b> (Novato to Healdsburg) and <b>"Lombard Segment"</b> (Ignacio to Lombard) <i>Title acquired in the name of NWPRA</i>	HR2 Demo Project	Fed	NWPRA	\$ 9,770,649
1995		ISTEA Demo Project	Fed	NWPRA	\$ 6,179,351
1995		TCI / TP&D	State	NWPRA	\$ 1,488,500
1995		TCI / TP&D	State	NWPRA	\$ 765,469
<b>SUBTOTAL</b>					<b>\$ 44,800,000</b>

**Table 5. (continued)**

<b>Rail Rehab / Capital Projects - Humboldt</b>					
1991	<i>Appropriated, not allocated</i>	Prop 116	State	NCRA	\$ 72,285
1993-1994	Phase II Capital Improvements - Humboldt	Prop 116	State	NCRA	\$ 1,885,923
2004	Tie Replacements (Northern Projects)	Prop 116	State	NCRA	\$ 410,706
1996	Short-Line Rail Rehab (Northern Projects)	TCI / TP&D	State	NCRA	\$ 703,990
1995	Willits to Eureka- Phase IV Rehab Project	TCI / TP&D	State	NCRA	\$ 150,000
1995	Willits to Eureka- Phase IV Rehab Project	TCI / TP&D	State	NCRA	\$ 240,000
1995	Willits to Eureka- Phase IV Rehab Project	TCI / TP&D	State	NCRA	\$ 456,730
1996	Short line Rehab phase IV-C Project	TCI / TP&D	State	NCRA	\$ 48,472
2010	Novato Quiet Zones, Signal Repair, Black Point Bridge Automation	ISTEA Demo Project	State	NCRA / SMART	\$ 8,572,172
<b>SUBTOTAL</b>					<b>\$ 12,540,278</b>
<b>Rail Rehab / Capital Projects - Mendocino</b>					
1993-1994	Phase II Capital Improvements – Mendocino	Prop 116	State	NCRA	\$ 1,257,282
2004	Tie Replacements (Northern Projects)	Prop 116	State	NCRA	\$ 273,804
1995	Willits to Eureka- Phase IV Rehab Project	TCI / TP&D	State	NCRA	\$ 150,000
2000	TCRP 32.2 - Rail Rehab Windsor to Willits	TCRP	State	NCRA	\$ 600,000
2006	TCRP 32.4 - Marin Levee Repairs/Rehab	TCRP	State	NCRA	\$ 1,475,000
2007	TCRP 32.4 - Fields Landing Levee Repair	TCRP	State	NCRA	\$ 690,000
2007	TCRP 32.4 - Schellville Rail Levee Repair	TCRP	State	NCRA	\$ 2,084,000
2007	TCRP 32.9 - Russian River Crossing Signals	TCRP	State	NCRA	\$ 1,530,000
2007	TCRP 32.9 - Russian River Crossing Signals	TCRP	State	NCRA	\$ 7,495,000
2007	TCRP 32.9 - Tracks Windsor to Lombard	TCRP	State	NCRA	\$ 13,588,000
2008	TCRP 32.9 - Russian River Rehab	TCRP	State	NCRA	\$ 1,561,000
2011	Windsor to Lombard Rail Rehab	RRIF Loan	Fed	NCRA / NWPCo	\$ 3,200,000
<b>SUBTOTAL</b>					<b>\$ 33,904,086</b>

**Table 5. (continued)**

<b>Rail Rehab / Capital Projects - Marin</b>					
1996	Marin Station Site Improvements	TCI / TP&D	State	NWPRA	\$ 2,300,000
<b>SUBTOTAL</b>					<b>\$ 2,300,000</b>
<b>Plans, Specs, &amp; Estimate / Project Approval &amp; Environmental Documents</b>					
2000	TCRP 32.3 Capital Assessment Willits North	TCRP	State	NCRA	\$ 400,000
2006	TCRP 32.3 - Russian River EIR	TCRP	State	NCRA	\$ 600,000
2001	TCRP 32.4 - Capital Assessment	TCRP	State	NCRA	\$ 100,000
2006	TCRP 32.4 - Russian River EIR	TCRP	State	NCRA	\$ 651,000
2000	TCRP 32.5 - Env. Consent Decree Remediation (Programmed, not Allocated)	TCRP	State	NCRA	\$ 2,665,000
2001	TCRP 32.5 - Env. Consent Decree Studies	TCRP	State	NCRA	\$ 100,000
2002	TCRP 32.5 - Env. Consent Decree Remediation	TCRP	State	NCRA	\$ 1,046,000
2006	TCRP 32.5 - Env. Consent Decree Studies	TCRP	State	NCRA	\$ 289,000
2006	TCRP 32.9 - Russian River EIR	TCRP	State	NCRA	\$ 6,826,000
<b>SUBTOTAL</b>					<b>\$ 12,677,000</b>
<b>Debt Reduction</b>					
2000	Q-Fund Trust Account	TCI / TP&D	State	NCRA	\$ 810,550
2000	TCRP 32.6 - Debt Reduction	TCRP	State	NCRA	\$ 10,000,000
<b>SUBTOTAL</b>					<b>\$ 10,810,550</b>
<b>Defray Administrative Costs</b>					
2000-2001	TCRP 32.1 - Defray Admin Costs	TCRP	State	NCRA	\$ 1,000,000
<b>SUBTOTAL</b>					<b>\$ 1,000,000</b>
<b>Local Match for Federal Aid Awards</b>					
2001	TCRP 32.8 - (Allocation returned to State)	TCRP	State	NCRA	\$ 5,500,000
<b>SUBTOTAL</b>					<b>\$ 5,500,000</b>
<b>Dissolution Expenses - SB 1029</b>					
2020	Assessment Studies	2018-19 Gen Fund	State	CalSTA to Task Force	\$ 3,000,000
2020	SMART acquire freight rights (Healdsburg to Lombard)	2019-20 PTA	State	CalSTA to SMART	\$ 4,000,000
2020	2019/2020 NCRA Agency Operating Costs	2019-20 Gen Fund	State	CalSTA to NCRA	\$ 500,000

**Table 5. (continued)**

2020	Rail Rehab	2019-20 Gen Fund	State	CalSTA to SMART	\$ 2,000,000
2020	Legal Fees - EIR Consent Decree	2019-20 Gen Fund	State	CalSTA to Litigant	\$ 2,000,000
2020	RRIF Loan Payoff	2019-20 Gen Fund	State	CalSTA to FRA	\$2,400,000
2020	Dissolution Expenses - TBD	2019-20 Gen Fund	State	CalSTA	\$ 3,900,000
<b>SUBTOTAL</b>					<b>\$ 17,800,000</b>
TOTAL State Investment				\$102,281,914	
TOTAL Federal Investment				\$39,050,000	
<b>TOTAL Public Investment in NWP Line</b>				<b>\$141,331,914</b>	

\*Except for the SB 1029 appropriations, the total expended on the NWP Line does not include funds that may have been granted to, or expended by, SMART after the dissolution of NWPRA.

### State Programs

#### *Proposition 116*

*\$10,000,000*

The Clean Air and Transportation Improvement Act of 1990, also known as Prop 116 is a voter-approved state proposition which designates \$1.99 billion for specific projects, purposes, and geographic jurisdictions, primarily for passenger rail capital projects. In the NWP Corridor, these funds have been used for right-of-way acquisition for both NCRA and NWPRA/SMART, as well as rehabilitation projects.

#### *Transit Capital Improvement (TCI / TP&D)*

*\$7,509,742*

Transportation Planning & Development (TP&D) Funds are generated from sales tax on diesel fuel, sales tax due to state tax on gasoline above nine cents per gallon, and "over spill" sales tax (4.75 percent tax on taxable goods, including gasoline, in excess of revenue generated from 5 percent state sales tax on all taxable good, except gasoline). Transit Capital Improvement Program is an annual state program funded by the California Transportation Commission with TP&D and Article XIX (state gas tax) funds. Eligible uses include abandoned railroad rights-of-way acquisition; bus rehabilitation; fixed guideway/rolling stock for commuter rail, urban rail, and intercity rail; grade separation; intermodal transfer stations serving various transportation modes, ferry projects, vessels, and terminals; and short-line railroad rehabilitation. In the Northwestern Pacific Railroad corridor these funds were used as "local match" to leverage federal aid funds to acquire right-of-way south of Willits and for rehabilitation projects along the line.

*Traffic Congestion Relief Program (TCRP)* *\$60,000,000*

The Traffic Congestion Relief Program was in effect during the years 2000 – 2018. It was created by the Legislature to provide funding for transportation projects that would improve traffic mobility and relieve congestion; connect transportation systems; and provide for better goods movement. A total of \$60 million was appropriated to NCRA and was split into nine different projects (32.1 – 32.9) for use on the entire rail line. These projects covered administration costs; outstanding debts; environmental consent decree projects; “local match” for appropriations in the federal reauthorization bill of 1991, The Intermodal Surface Transportation Efficiency Act (better known as ISTEA); Q-fund trust deposit (see below for more detail); environmental studies; and long-term stabilization/rehabilitation projects.

*Public Transportation Account (PTA)* *\$4,000,000*

The Public Transportation Account is comprised of bond proceeds allocated to capital projects and the sales tax on diesel fuel and can be used for either capital projects or agency operations. SB1029 appropriated these funds to CalSTA for SMART to purchase NWPCo’s freight rights and rail equipment.

*General Fund* *\$13,800,000*

The state General Fund makes up the bulk of the annual California State budget (with 75 percent of all appropriations) and allocating monies to state operations and payments to localities. A total of \$13.8 million has been appropriated to CalSTA in the State Budget Act of 2019-20 for conducting this assessment; for track rehabilitation in the SMART corridor; and for expenses related to the dissolution of NCRA.

Federal Programs

*ISTEA (Fund 368)* *\$15,000,000*

The federal transportation reauthorization bill, or Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), appropriated funds in Section 1108, Project 13 for Intermodal projects in Northern California for the purchase of right-of-way and to develop a transportation corridor in the existing rail right-of-way from Larkspur to Korbel, and Novato to Lombard. Roughly \$4 million of this appropriation was used for right-of-way acquisition, and the remaining \$11 million funded rail and depot rehabilitation projects, such as the Ukiah Depot building, in both NCRA and NWPRRA corridors.

*Q-Fund Loan* *\$12,000,000*

The federal Q-Fund Loan program provided funding from the Federal Highway Administration Right-of-Way Revolving Fund as authorized by 23 CFR, Chapter I, Subchapter G, Part 712, Subpart G, also known as “Q- Funds.” The purpose of the

April 1996 loan was to match state funding in the acquisition of the historic Northwestern Pacific Railroad right-of-way from Larkspur to Willits and Novato to Lombard, also known as the “Willits,” “Healdsburg,” and “Lombard” segments. As previously described, NCRA retained the Willits segment while NWPRA retained the Healdsburg and Lombard segments and NCRA assumed the entire \$12,000,000 loan liability. In the Traffic Congestion Relief Program created in 2000, the Legislature appropriated \$5.5 million to help alleviate this debt. The Traffic Congestion Relief Program funds were transferred to a trust fund account, the balance of which was expected to grow with accrued interest and regular deposits by NCRA. The trust account remitted periodic payments on the debt until the balance of the Q-Fund Loan was forgiven under Section 1915 of the 2005 federal transportation reauthorization bill, The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (commonly referred to as SAFETEA-LU), and the remaining state funds were returned to the Traffic Congestion Relief Program.

*HR2 (1987) Demonstration Projects (Funds 307, 309)* *\$9,770,649*

These federal demonstration funds were provided in Section 149(a)(41)(B) of the 1987 federal transportation reauthorization bill, The Surface Transportation and Uniform Relocation Assistance Act adopted in April 1987. The legislation directed the US Secretary of Transportation to carry out a highway project for the purpose of demonstrating the extent to which traffic congestion is relieved on a major north-south segment of the Federal-aid primary system by construction of high occupancy vehicle lanes along a right-of-way which is parallel to a north-south arterial which connects Santa Rosa and Petaluma and connects San Rafael and Healdsburg. These “Demonstration Funds” were used on the Healdsburg and Lombard segment right-of-way acquisitions for NWPRA.

*Railroad Rehabilitation & Improvement Financing (RRIF)* *\$3,180,000*

The Railroad Rehabilitation and Improvement Financing (RRIF) program was established by the 1998 federal transportation reauthorization bill, The Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21). Under this program, the Federal Railroad Administration is authorized to provide direct loans and loan guarantees up to \$35 billion to finance development of railroad infrastructure. Direct loans can fund up to 100 percent of a railroad project with repayment periods of up to 35 years and interest rates equal to the cost of the borrowing by the government. NCRA and NWPCo are co-borrowers on this loan, which funded the final rehabilitation of Windsor to Lombard. This is discussed in more detail in the *Liabilities* section.

## APPENDIX C. OSAE Calculated Value of Net Assets Report

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The report titled *North Coast Railroad Authority Calculated Value of Net Assets as of December 31, 2019* is available for viewing on the project website: <https://calsta.ca.gov/subject-areas/reports>.



## APPENDIX D. Great Redwood Trail Feasibility, Governance, and Railbanking Report

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Due to file size, both Part I and Part II of the *Great Redwood Trail Feasibility, Governance, and Railbanking Report* are available for viewing on the project website: <https://calsta.ca.gov/subject-areas/reports>.



## APPENDIX E. DGS Databases

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DGS compiled two separate databases, 1) NCRA – Fee Right-of-way BOE Surveyor Maps Reference, and 2) NCRA Agreements and Contracts.

The first database includes 1800 lines of parcel data for NCRA's right-of-way. This information is a compilation of data from surveyors maps and includes the following data: map references, Grantor, Grantee, type of land acquisition and date, record date, acreage, and deed number.

The second database focused on NCRA's agreements and contracts. Data included in this spreadsheet include: purpose of the agreement, county, reference links, type of agreement, options included, and payment terms.

Both databases have been converted to Adobe Acrobat and are available for viewing on the project website: <https://calsta.ca.gov/subject-areas/reports>.



## APPENDIX F. Environmental Liability of the NCRA Corridor

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The memorandum titled "Environmental Liability of the North Coast Railroad Authority Corridor" is available for viewing on the project website: <https://calsta.ca.gov/subject-areas/reports>.



COMMISSIONERS

1<sup>st</sup> Division

Larry Doss

2<sup>nd</sup> Division

Greg Dale

3<sup>rd</sup> Division

Stephen Kullmann

4<sup>th</sup> Division

Richard Marks

5<sup>th</sup> Division

Patrick Higgins

**Humboldt Bay**  
**Harbor, Recreation and Conservation District**  
(707)443-0801  
P.O. Box 1030  
Eureka, California 95502-1030



**STAFF REPORT**  
**HARBOR DISTRICT MEETING**  
**December 10, 2020**

**TO:** Honorable Board President and Harbor District Board Members

**FROM:** Larry Oetker, Executive Director

**DATE:** December 4, 2020

**TITLE: Consider Adopting Resolution 2020-17, A Resolution Authorizing Adoption of the Humboldt County Operational Area Hazard Mitigation Plan 2020 Update**

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**STAFF RECOMMENDATION:** Staff recommends that the Board: Approve Resolution 2020-17 to adopt the Humboldt County Operational Area Hazard Mitigation Plan 2020 Update.

**SUMMARY:** The Harbor District partnered with the County of Humboldt, Cities, Towns, Tribes and other Special Districts to pool resources and create consistent mitigation strategies within the Humboldt County Operational Area. Adoption of the Humboldt County Operational Area Hazard Mitigation Plan 2020 Update affirms the Harbor District's commitment to this effort and makes the Harbor District eligible for future hazard mitigation funding opportunities.

**ATTACHMENTS:**

- A. Resolution 2020-17**
- B. Humboldt Bay Harbor District Hazard Mitigation Annex**

**HUMBOLDT BAY HARBOR, RECREATION,  
AND CONSERVATION DISTRICT**

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**RESOLUTION NO. 2020-17**

**A RESOLUTION AUTHORIZING ADOPTION OF THE HUMBOLDT COUNTY OPERATIONAL AREA  
HAZARD MITIGATION PLAN 2020 UPDATE**

**WHEREAS**, all of Humboldt County has exposure to natural hazards that increase the risk to life, property, environment and the County's economy; and

**WHEREAS**, pro-active mitigation of known hazards before a disaster event can reduce or eliminate long-term risk to life and property; and

**WHEREAS**, The Disaster Mitigation Act of 2000 (Public Law 106-390) established new requirements for pre- and post-disaster hazard mitigation programs; and

**WHEREAS**, a coalition of Humboldt County, Cities, Towns, Tribes and Special Districts with like planning objectives has been formed to pool resources and create consistent mitigation strategies within the Humboldt County Operational Area; and

**WHEREAS**, the coalition has completed a planning process that engages the public, assesses the risk and vulnerability to the impacts of natural hazards, develops a mitigation strategy consistent with a set of uniform goals and objectives, and creates a plan for implementing, evaluating and revising this strategy;

**NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF COMMISSIONERS OF THE  
HUMBOLDT BAY HARBOR, RECREATION, AND CONSERVATION DISTRICT:**

1. Adopts in its entirety, the Humboldt County Operational Area Hazard Mitigation Plan (HMP).
2. Will use the adopted and approved portions of the HMP to guide pre- and post-disaster mitigation of the hazards identified.
3. Will coordinate the strategies identified in the HMP with other planning programs and mechanisms under its jurisdictional authority.
4. Will continue its support of the Steering Committee and continue to participate in the Planning Partnership as described by the HMP.
5. Will help to promote and support the mitigation successes of all HMP Planning Partners.

6. Authorizes the Executive Director to coordinate with the County Office of Emergency Services, State Office of Emergency Services and the Federal Emergency Management Agency in the implementation of this Plan.

**PASSED AND ADOPTED** by the Humboldt Bay Harbor, Recreation and Conservation District Board of Commissioners at a duly called meeting held on the **10<sup>th</sup> day of December 2020** by the following polled vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**ATTEST:**

---

**Stephen Kullmann, President  
Board of Commissioners**

---

**Patrick Higgins, Secretary  
Board of Commissioners**

**CERTIFICATE OF SECRETARY**

The undersigned, duly qualified and acting Secretary of the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, does hereby certify that the attached Resolution is a true and correct copy of RESOLUTION NO. **2020-17** entitled,

**A RESOLUTION AUTHORIZING ADOPTION OF THE HUMBOLDT COUNTY OPERATIONAL AREA  
HAZARD MITIGATION PLAN 2020 UPDATE**

as regularly adopted at a legally convened meeting of the Board of Commissioners of the HUMBOLDT BAY HARBOR, RECREATION AND CONSERVATION DISTRICT, duly held on the **10<sup>th</sup> day of December 2020**; and further, that such Resolution has been fully recorded in the Journal of Proceedings in my office, and is in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this **10<sup>th</sup> day of December 2020**.

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**Patrick Higgins, Secretary  
Board of Commissioners**

## 21. HUMBOLDT BAY HARBOR, RECREATION, AND CONSERVATION DISTRICT

---

### 21.1 HAZARD MITIGATION PLAN POINT OF CONTACT

#### Primary Point of Contact

Name, Larry Oetker  
Title Executive Director  
Street Address 601 Startare Drive  
City, Eureka  
State CA  
ZIP 95502-1030  
Telephone: (707) 443-0801  
e-mail Address: loetker@humboldtby.org

#### Alternate Point of Contact

Name, Mindy Hiley  
Title Director of Administrative Services  
Street Address 601 Startare Drive  
City, Eureka  
State CA  
ZIP 95502-1030  
Telephone: (707) 443-0801  
e-mail Address: mhiley@humboldtby.org

### 21.2 JURISDICTION PROFILE

#### 21.2.1 Overview

The Humboldt Bay Harbor, Recreation, and Conservation District was formed by an act of the State of California legislature in 1970 and ratified by the local electorate in 1973. The Harbor District's purpose is to promote the orderly development of commerce, fisheries, navigation, recreation and the protection of the Humboldt Bay environment as defined in the District's enabling legislation contained in Appendix II of the California Harbors and Navigation Code. The territory of the Harbor District is all of Humboldt County and is governed by five elected Commissioners that share the same division boundaries as the Humboldt County Board of Supervisors. The District has development regulation authority over all of Humboldt Bay. The District presently has 15 full-time employees that oversee the operation and maintenance of Woodley Island Marina, Fields Landing Boat Yard, Redwood Marine Terminals I & II, Park Street Marsh, King Salmon Beach and the Shelter Cove Boat Launching Facility.

#### 21.2.2 Service Area and Trends

The District service area covers 4,052 square miles, serving a population of 136,691 as of January 2018. Humboldt Bay is the only deep water bay between San Francisco Bay and Coos Bay, Oregon. The Port of Humboldt Bay is the only protected deep water port for large ocean-going vessels for the large region and is designated as an official "port of refuge". The bay is approximately 14 miles long and ranges from 0.5 miles wide at the entrance to 4.3 miles wide in North Bay. The surface area of Humboldt Bay is 16,000 acres of which 6,000 acres are intertidal mudflats.

The tidelands, bays, and estuaries of Humboldt County have unique and diverse management needs. The Humboldt Bay Harbor, Recreation, and Conservation District was created in 1973 to address these needs. The District oversees planned development of the harbors and ports within the District, as well as protection of natural

resources. It is a countywide agency but only has regulatory permit jurisdiction within Humboldt Bay. The District has also been granted the tidelands management authority over certain parts of Humboldt Bay.

One of California’s most pristine estuarine environments, Humboldt Bay is the second-largest natural bay in the state. It has a wide variety of unique habitats—such as open water, shallow water, mud and sand flats, salt marshes and ponds, agricultural lands, sand beaches, islands, and woody riparian vegetation. The Bay is home to approximately half of California’s eelgrass population, as well as 35 managed species of fish. In total, the Bay supports 120 species of fish, 250 species of marine birds, 550 species of marine invertebrates, 80 species of algae, and numerous resident and visiting marine mammals.

The District oversees and promotes many port development projects and programs. These include dredging, retention, and improvement of commercial fishing facilities, improvement of transportation and maritime facilities, pilotage licensing, Oil Spill Co-op coordination, erosion control, shoreline protection projects, port marketing, aquaculture and permitting for development.

### 21.2.3 Assets

Table 21-1 summarizes the critical assets of the District and their value.

Table 21-1. Special Purpose District Assets	
Asset	Value
Property	
11,000 acres of land with over 500,000 square feet of structures	\$100,000,000
Equipment	
Fire Boat – 42 foot	\$1,200,000
Port Authority Boat – 30 foot	\$235,000
Work Boat – 25 foot	\$140,000
Work Skiff boat – 28 foot	\$12,000
Barge – 48 foot	\$85,000
Cutter Head Suction Dredge Boat – 38 foot	\$950,000
Forklift 5500	\$15,000
Tractor	\$20,000
EZ Loader trailer	\$11,000
2500 HD Dodge 4X4 truck	\$40,000
Dodge Charger	\$16,000
Ford Ranger	\$15,000
Generator mobile Honda 3000	\$1,500
Generator mobile 35 KV	\$10,000
Generator mobile HONDA 3000	\$1,500
Fire pump mobile Honda	\$3,500
Trailer Oil Spill Emergency Response	\$15,000
Trailer Emergency Response – 18 foot	\$35,000
Trailer Emergency Response – 16 foot	\$30,000
Container Box specialty tools	\$10,000
Office Equipment	\$20,000
Compressor	\$5,000
Power Equipment Hand	\$2,000
Woodley Island Marina (250 boat slips)	\$45,000,000

Asset	Value
Work Dock (Woodley Island Marina)	\$1,000,000
Dock Hoist 2 ton (Woodley Island Marina)	\$20,000
Dock Hoist 1 ton (Woodley Island Marina)	\$15,000
Boat Repair Yard (Fields Landing)	\$15,000,000
Travel Lift Marine 150 ton (Fields Landing)	\$155,000
Boat Lift Dock (Fields Landing)	\$1,250,000
Dock – 7 acres – 1300 foot frontage (RMT I)	\$45,000,000
Dock Hoist – 2 ton (RMT I)	\$20,000
Dock – 1300 foot frontage (RMT II)	\$40,000,000
Total:	\$147,497,000
<b>Critical Facilities and Infrastructure</b>	
Woodley Island Marina	\$125,000,000
Jetty North and South Humboldt Bay Entrance	\$250,000,000
Dock RMT I	\$45,000,000
Dock RMT II	\$40,000,000
Dock Fields Landing Boat Yard	\$20,000,000
Breakwater Shelter Cove	\$1,700,000
Boat Ramp Shelter Cove	\$500,000
Levee Surrounding Humboldt Bay	\$1,000,000,000
Total:	\$1,482,200,000
<b>Combined Total (Critical Facilities and Infrastructure + Assets):</b>	<b>\$1,629,697,000</b>

## 21.3 CAPABILITY ASSESSMENT

An assessment of the District’s current capabilities was conducted to identify opportunities to expand, initiate or integrate capabilities in order to further hazard mitigation goals and objectives. Where such opportunities were identified and determined to be feasible, they are included in the action plan.

### 21.3.1 Planning and Regulatory Capabilities

Jurisdictions develop plans and programs and implement rules and regulations to protect and serve residents. When effectively prepared and administered, these plans, programs and regulations can support the implementation of mitigation actions. Table 21-2 summarizes existing codes, ordinances, policies, programs or plans that are applicable to this hazard mitigation plan.

Table 21-2. Planning and Regulatory Capability

Plan, Study or Program	Date of Most Recent Update	Comment
Humboldt Bay Management Plan	5/2007	Overall Regulatory Document
Emergency Permits Policies & Procedures (Ordinance 4)	12/1995	None
Bar Pilots Policies and Procedures (Ordinance 15)	10/2002	None
Anchoring, Security, and Disposition of Vessels (Ordinance 17)	5/2004	None

### 21.3.2 Fiscal, Administrative and Technical Capabilities

Fiscal capability is an indicator of a jurisdiction’s ability to fulfill the financial needs associated with hazard mitigation projects. An assessment of fiscal capabilities is presented in Table 21-3. Administrative and technical

capabilities represent a jurisdiction’s staffing resources for carrying out the mitigation strategy. An assessment of administrative and technical capabilities is presented in Table 21-4.

Financial Resource	Accessible or Eligible to Use?
Capital Improvements Project Funding	Yes
Authority to Levy Taxes for Specific Purposes	Yes
User Fees for Water, Sewer, Gas or Electric Service	Yes
Incur Debt through General Obligation Bonds	Yes
Incur Debt through Special Tax Bonds	Yes
Incur Debt through Private Activity Bonds	Yes
State-Sponsored Grant Programs	Yes
Development Impact Fees for Homebuyers or Developers	No
Federal Grant Programs	Yes

Staff/Personnel Resource	Available?	Department/Agency/Position
Planners or engineers with knowledge of land development and land management practices	Yes	Staff and Contract Planner & Engineer
Engineers or professionals trained in building or infrastructure construction practices	Yes	Contract Engineer
Planners or engineers with an understanding of natural hazards	Yes	Staff and Contract Planner & Engineer
Staff with training in benefit/cost analysis	Yes	Contract Engineer
Surveyors	No	
Personnel skilled or trained in GIS applications	Yes	Contract Planner & Engineer
Scientist familiar with natural hazards in local area	No	
Emergency manager	Yes	County OES
Grant writers	Yes	Staff and Contract Planner & Engineer
Other		

### 21.3.3 Education and Outreach Capabilities

Outreach and education capability identifies the connection between government and community members, which opens a dialogue needed for a more resilient community. An assessment of education and outreach capabilities is presented in Table 21-5.

### 21.3.4 Adaptive Capacity for Climate Change

Given the uncertainties associated with how hazard risk may change with a changing climate, a jurisdiction’s ability to track such changes and adapt as needed is an important component of the mitigation strategy. Table 21-6 summarizes the jurisdiction’s adaptive capacity for climate change.

**Table 21-5. Education and Outreach**

Criterion	Response
Do you have a public information officer or communications office?	No
Do you have personnel skilled or trained in website development?	No
Do you have hazard mitigation information available on your website? • If yes, please briefly describe	No
Do you use social media for hazard mitigation education and outreach? • If yes, please briefly describe	No
Do you have any citizen boards or commissions that address issues related to hazard mitigation? • If yes, please briefly specify	Yes Harbor District Board and Harbor Safety Committee
Do you have any other programs already in place that could be used to communicate hazard-related information? • If yes, please briefly describe	Repeater with hand held receivers
Do you have any established warning systems for hazard events?  • If yes, please briefly describe	Yes  The District monitors radio transmission Channel 14.1 Tsunami warning can be heard from all District properties

**Table 21-6. Adaptive Capacity for Climate Change**

Criterion	Jurisdiction Rating <sup>a</sup>
<b>Technical Capacity</b>	
Jurisdiction-level understanding of potential climate change impacts <i>Comment:</i>	High
Jurisdiction-level monitoring of climate change impacts <i>Comment:</i>	High
Technical resources to assess proposed strategies for feasibility and externalities <i>Comment:</i>	Medium
Jurisdiction-level capacity for development of greenhouse gas emissions inventory <i>Comment:</i>	Low
Capital planning and land use decisions informed by potential climate impacts <i>Comment:</i>	Medium
Participation in regional groups addressing climate risks <i>Comment:</i>	Medium
<b>Implementation Capacity</b>	
Clear authority/mandate to consider climate change impacts during public decision-making processes <i>Comment:</i>	Medium
Identified strategies for greenhouse gas mitigation efforts <i>Comment:</i>	Low
Identified strategies for adaptation to impacts <i>Comment:</i>	Medium
Champions for climate action in local government departments <i>Comment:</i>	Low
Political support for implementing climate change adaptation strategies <i>Comment:</i>	Medium
Financial resources devoted to climate change adaptation <i>Comment:</i>	Low
Local authority over sectors likely to be negative impacted <i>Comment:</i>	Low

Criterion	Jurisdiction Rating <sup>a</sup>
Public Capacity	
Local residents knowledge of and understanding of climate risk <i>Comment:</i>	Medium
Local residents support of adaptation efforts <i>Comment:</i>	Medium
Local residents' capacity to adapt to climate impacts <i>Comment:</i>	Low
Local economy current capacity to adapt to climate impacts <i>Comment:</i>	Low
Local ecosystems capacity to adapt to climate impacts <i>Comment:</i>	Low

a. High = Capacity exists and is in use; Medium = Capacity may exist, but is not used or could use some improvement; Low = Capacity does not exist or could use substantial improvement; Unsure= Not enough information is known to assign a rating.

## 21.4 INTEGRATION WITH OTHER PLANNING INITIATIVES

For hazard mitigation planning, “integration” means that hazard mitigation information is used in other relevant planning mechanisms, such as capital facilities planning, and that relevant information from those sources is used in hazard mitigation. This section identifies where such integration is already in place, and where there are opportunities for further integration in the future. The progress reporting process described in Volume 1 will document the progress of hazard mitigation actions related to integration and identify new opportunities for integration.

### 21.4.1 Existing Integration

Some level of integration has already been established between local hazard mitigation planning and the following other local plans and programs:

- Humboldt Bay Management Plan (2007)
- County of Humboldt Emergency Operations Plan (2015)
- Harbor Safety Plan of the Humboldt Bay Area (revised in 2009)

### 21.4.2 Opportunities for Future Integration

The capability assessment presented in this annex identified the following plans and programs that do not currently integrate hazard mitigation information but provide opportunities to do so in the future:

- Oil spill response program
- Harbor safety program

## 21.5 JURISDICTION-SPECIFIC NATURAL HAZARD EVENT HISTORY

Table 21-7 lists past occurrences of natural hazards for which specific damage was recorded in the District. Other hazard events that broadly affected the entire planning area are listed in the risk assessments in Volume 1 of this hazard mitigation plan.

Table 21-7. Natural Hazard Events

Type of Event	FEMA Disaster #	Date	Damage Assessment
Tsunami	N/A	3/33/2011	No Physical damage, Woodley Island evacuated tenants and employees of the District. Tsunami observed no damage.
Severe weather	N/A	12/31/2005	Building 14, Redwood Marine Terminal Major roof and building damage \$155,000. Damage to dock facility Fields Landing Boat Yard. Damage to Breakwater Woodley Island Marina \$75,000.
Severe weather	DR-1203	2/6/1998	7.75 million countywide
Earthquake	DR-942	04/25,26/1992	Magnitude 7.1, 6.6 and 6.7 within 24 hour period. Private property damage occurred, but the total value is not known. It is believed to have been quite widespread. See <a href="http://www.ngdc.noaa.gov/nndc/struts/results?eq_0=5&amp;t=101634&amp;s=0&amp;d=1">http://www.ngdc.noaa.gov/nndc/struts/results?eq_0=5&amp;t=101634&amp;s=0&amp;d=1</a>

The following are historical events of specific significance:

- Annual excessive shoaling in various parts of Humboldt Bay, including the entrance, which presents a hazard to ships, commercial and recreational boats. Emergency dredging operations frequently required.
- Tsunami as a result of the Japan Earthquakes of 2011. Facilities survived with minimum impact to Harbor District Facilities. Evacuation of Woodley Island and Tsunami preparation and readiness were successful.

## 21.6 HAZARD RISK RANKING

Table 21-8 presents a local ranking for all hazards of concern for which this hazard mitigation plan provides complete risk assessments. As described in detail in Volume 1, the ranking process involves an assessment of the likelihood of occurrence for each hazard, along with its potential impacts on people, property and the economy. Mitigation actions target hazards with high and medium rankings.

Table 21-8. Hazard Risk Ranking

Rank	Hazard Type	Risk Rating Score (Probability x Impact)	Category
1	Severe Weather	45	High
2	Earthquake	45	High
3	Flood	24	Medium
4	Tsunami	24	Medium
5	Landslide	24	Medium
6	Sea-Level Rise	24	Medium
7	Wildfire	12	Low
8	Dam Failure	9	Low
9	Drought	0	Low

## 21.7 JURISDICTION-SPECIFIC VULNERABILITIES

Volume 1 of this hazard mitigation plan provides complete risk assessments for each identified hazard of concern. The following jurisdiction-specific issues have been identified based on a review of the results of the risk assessment, public involvement strategy, and other available resources:

- Effects of tsunamis and sea level rise to critical assets including docks, boat ramps and other marine infrastructure.
- Effects of excessive shoaling on navigation channel and marina channel depths. Increased shoaling due to tsunamis and other natural events.

- Oil spills.

## 21.8 STATUS OF PREVIOUS PLAN ACTIONS

Table 21-9 summarizes the actions that were recommended in the previous version of the hazard mitigation plan and their implementation status at the time this update was prepared.

Action Item from Previous Plan	Completed	Removed: No Longer Feasible	Carried Over to Plan Update	
			Check if Yes	Action # in Update
Assess and enhance the Harbor District’s storm and tsunami warning capability by joining NOAA “Storm Ready” and “Tsunami Ready” programs <i>Comment:</i> This has not been done, but is being planned.			X	HB3
Rebuild/retrofit warehousing at Redwood Marine Terminal <i>Comment:</i> Redwood Terminal has been substantially retrofitted including with new roofing, siding and doors.	X			
Rebuild breakwater at Woodley Island Marina <i>Comment:</i> This has not been done.			X	HB5
Rebuild work dock at Woodley Island Marina <i>Comment:</i> This has not been done.			X	HB6
Rebuild breakwater at Shelter Cove <i>Comment:</i> This has not been done.			X	HB7
Install floating breakwater on east end of Woodley Island Marina <i>Comment:</i> This has not been done.			X	HB8
Develop standard specifications for levee repair/rehabilitation to minimize breaching and overtopping <i>Comment:</i> This has not been done.			X	HB9
Develop Dredge Material Management Program in order to ensure adequate water depths necessary for safe navigation and emergency access <i>Comment:</i> This program is currently being developed with funding from the State Resources Agency.			X	HB10
Rebuild Redwood Marine Terminal <i>Comment:</i> This has not been done.			X	HB1
Fields Landing Terminal Berths <i>Comment:</i> This has not been done.			X	HB11

## 21.9 HAZARD MITIGATION ACTION PLAN AND EVALUATION OF RECOMMENDED ACTIONS

Table 21-10 lists the actions that make up the hazard mitigation action plan for this jurisdiction.

**Table 21-10. Hazard Mitigation Action Plan Matrix**

Applies to New or Existing Assets	Objectives Met	Lead Agency	Support Agency	Estimated Cost	Sources of Funding	Timeline <sup>a</sup>
Action HB1—Dock float replacement at Woodley Island Marina.						
<i>Hazards Mitigated:</i> Severe storm, tsunami, earthquake.						
New and Existing	1, 2, 4,	HBHD	None	Medium	Loans, grants	Short-term
Action HB2—Rebuild/Retrofit Redwood Marine Terminal Berth 1						
<i>Hazards Mitigated:</i> Severe storm, earthquake, tsunami.						
New and Existing	1, 2, 4	HBHD	County of Humboldt	High	Loans, grants	Short-term
Action HB3—Dike rebuild in preparation for sea level rise.						
<i>Hazards Mitigated:</i> Flooding, severe storm, tsunami						
Existing	1, 2, 3, 4, 5, 8	HBHD	County of Humboldt City of Eureka City of Arcata National Wildlife Refuge Caltrans	High	Loans, grants	Long-term
Action HB4—Assess and enhance the Harbor District’s storm and tsunami warning capability by joining NOAA “Storm Ready” and “Tsunami Ready” programs						
<i>Hazards Mitigated:</i> Flooding, severe storm, tsunami						
New and Existing	8,9,10	HBHD	County of Humboldt	Low	District Funds	Short-term
Action HB5—Retrofit breakwater at Woodley Island Marina						
<i>Hazards Mitigated:</i> Flooding, severe storm, tsunami						
Existing	1, 2, 3, 4, 5, 8	HBHD	County of Humboldt	High	Harbor District HMGP/PDM	Long-term
Action HB6—Retrofit work dock at Woodley Island Marina						
<i>Hazards Mitigated:</i> Flooding, severe storm, earthquake and tsunami						
Existing	1,2,3	HBHD	County of Humboldt	High	Harbor District, CA Department of Boating and Waterways HMGP/PDM	Long-term
Action HB7—Retrofit breakwater at Shelter Cove						
<i>Hazards Mitigated:</i> Flooding, severe storm, tsunami						
Existing	1, 2, 3, 4, 5, 8	HBHD	County of Humboldt	High	Harbor District	Long-term
Action HB8—Install floating breakwater on east end of Woodley Island Marina						
<i>Hazards Mitigated:</i> Flooding, severe storm, tsunami						
New	1,2	HBHD	County of Humboldt	High	HBHD, CA Dept. of Boating and Waterways, PDM, HMGP	Long-term
Action HB9—Develop standard specifications for levee repair/rehabilitation to minimize breaching and overtopping						
<i>Hazards Mitigated:</i> Flooding, severe storm, tsunami						
New and Existing	8,9,10	HBHD	County of Humboldt	Low	HBHD	Long-term

Applies to New or Existing Assets	Objectives Met	Lead Agency	Support Agency	Estimated Cost	Sources of Funding	Timeline <sup>a</sup>
Action HB10—Develop Dredge Material Management Program in order to ensure adequate water depths necessary for safe navigation and emergency access <i>Hazards Mitigated:</i> Flooding, severe storm, tsunami						
New and Existing	1,2,3	HBHD	County of Humboldt	Medium	This program is currently being developed with funding from the State Resources Agency.	Ongoing
Action HB11—Fields Landing Terminal Berths <i>Hazards Mitigated:</i> Flooding, severe storm, tsunami						
Existing	1,2,3	HBHD	County of Humboldt	High	Harbor District HMGP/PDM	Long-term
HB12—Acquire and make available a floating emergency water delivery booster pump for fire protection. <i>Hazards Mitigated:</i> Wildfire						
New and Existing	1,2,3,4	HBHD	County of Humboldt	High	Harbor District FEMA HMA	Short term
HB13—Establish back up power sources for vulnerable infrastructure. <i>Hazards Mitigated:</i> Severe Weather, Earthquake, Flood, Tsunami, Landslide, Sea-Level Rise, Wildfire, Dam Failure						
New and Existing	1,2,3,4	HBHD	County of Humboldt	High	Harbor District FEMA HMA	Short Term
HB14—Establish a comprehensive dredging program to ensure that channels and marinas are maintained at safe depths for boating and shipping. <i>Hazards Mitigated:</i> Tsunami, Sea Level Rise						
Existing	1,2,3,4	HBHD	County of Humboldt	High	Harbor District USACE Funding	Long-term
HB15—Develop and implement protections for shoreline areas most vulnerable to tsunami and sea level rise impacts. <i>Hazards Mitigated:</i> Tsunami, SLR						
New and Existing	2,3	HBHD	County of Humboldt	High	Harbor District USACE, FEMA HMA	Long term
HB16—Improve fire suppression infrastructure (water pumps, generators, etc.) on the Humboldt Bay Samoa Peninsula. <i>Hazards Mitigated:</i> Wildfire						
New and Existing	2,3,4,5	HBHD	County of Humboldt	Medium	Harbor District, Humboldt County, FEMA HMA	Short term

a. Short-term = Completion within 5 years; Long-term = Completion within 10 years; Ongoing= Continuing new or existing program with no completion date  
See the introduction to this volume for list of acronyms used here.

**Table 21-11. Mitigation Action Priority**

Action #	# of Objectives Met	Benefits	Costs	Do Benefits Equal or Exceed Costs?	Is Project Grant-Eligible?	Can Project Be Funded Under Existing Programs/Budgets?	Implementation Priority <sup>a</sup>	Grant Pursuit Priority <sup>a</sup>
HB1	3	Medium	Medium	Yes	Yes	No	High	High
HB2	3	High	High	Yes	Yes	No	Medium	High
HB3	6	High	High	Yes	Yes	No	Medium	High
HB4	3	Medium	Low	Yes	No	Yes	High	N/A
HB5	6	High	High	Yes	Yes	No	Medium	High
HB6	3	High	High	Yes	Yes	No	Medium	High
HB7	6	High	High	Yes	Yes	No	Medium	High
HB8	2	High	High	Yes	Yes	No	Medium	High
HB9	3	Medium	Low	Yes	No	Yes	High	N/A
HB10	3	Medium	Medium	Yes	No	Yes	High	N/A
HB11	3	High	High	Yes	Yes	No	Medium	High
HB12	4	High	High	Yes	Yes	No	Medium	High
HB13	4	High	High	Yes	Yes	No	Medium	High
HB14	4	High	High	Yes	No	No	Medium	Low
HB15	2	High	High	Yes	Yes	No	Medium	High
HB16	4	High	Medium	Yes	Yes	No	Medium	N/A

a. See the introduction to this volume for explanation of priorities.

**Table 21-12. Analysis of Mitigation Actions**

Hazard Type	Action Addressing Hazard, by Mitigation Type <sup>a</sup>							
	Prevention	Property Protection	Public Education & Awareness	Natural Resource Protection	Emergency Services	Structural Projects	Climate Resilient	Community Capacity Building
<b>High-Risk Hazards</b>								
Severe Weather	HB9	HB1, HB2, HB5, HB6, HB7, HB11			HB4, HB13	HB3, HB8, HB10	HB3, HB4, HB8	HB3, HB4
Earthquake		HB1, HB2, HB5, HB6			HB13			
<b>Medium-Risk Hazards</b>								
Flood	HB9	HB5, HB6, HB7, HB11			HB4, HB13	HB3, HB8, HB10	HB3, HB4, HB8	HB3, HB4
Tsunami	HB9	HB1, HB2, HB5, HB6, HB7, HB11			HB4, HB13	HB3, HB8, HB10, HB14, HB15	HB3, HB4, HB8	HB3, HB4
Landslide					HB13			
Sea-Level Rise					HB13	HB-14, HB15		
<b>Low-Risk Hazards</b>								
Wildfire					HB12, HB13, HB16			
Dam failure					HB13			
Drought								

a. See the introduction to this volume for explanation of mitigation types.

## **21.10 REVIEW AND INCORPORATION OF RESOURCES FOR THIS ANNEX**

### **21.10.1 Existing Reports, Plans, Regulatory Tools and Other Resources**

The following technical reports, plans, and regulatory mechanisms were reviewed to provide information for this annex.

- 2014 Hazard Mitigation Plan
- Harbor District Insurance Documents
- Humboldt Bay Management Plan
- Humboldt Bay Ordinances
- Stormwater Management Plan

The following outside resources and references were reviewed:

- Hazard Mitigation Plan Annex Development Toolkit—The toolkit was used to support the identification of past hazard events and noted vulnerabilities, the risk ranking, and the development of the mitigation action plan.

### **21.10.2 Staff and Local Stakeholder Involvement in Annex Development**

This Annex was developed in coordination with Humboldt Bay Harbor District Staff and Consultants with previously identified projects and/or a role in mitigation planning and coordination for the Operational Area. The update was also coordinated with the Humboldt County Sheriff's Office of Emergency Services.

## **21.11 FUTURE NEEDS TO BETTER UNDERSTAND RISK/VULNERABILITY**

Further identification of solutions to reduce potential impacts of shoaling, sea level rise and tsunami.

COMMISSIONERS

1<sup>st</sup> Division

Larry Doss

2<sup>nd</sup> Division

Greg Dale

3<sup>rd</sup> Division

Stephen Kullmann

4<sup>th</sup> Division

Richard Marks

5<sup>th</sup> Division

Patrick Higgins

**Humboldt Bay**  
**Harbor, Recreation and Conservation District**  
(707)443-0801  
P.O. Box 1030  
Eureka, California 95502-1030



**STAFF REPORT**  
**HARBOR DISTRICT MEETING**  
**December 10, 2020**

**TO:** Honorable Board President and Harbor District Board Members

**FROM:** Larry Oetker, Executive Director

**DATE:** December 2, 2020

**TITLE:** Review of Subcommittees

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**STAFF RECOMMENDATION:** Staff recommends that the Board: Review the list of current subcommittees for accuracy and propose changes to current subcommittee members.

**SUMMARY:** Subcommittees are formed regularly throughout the year. Staff would like to review the active subcommittees annually to ensure they are still necessary and meeting, as well as giving members the opportunity to reevaluate their membership.

**DISCUSSION:** Subcommittees serve an important role for the Harbor District and the Board of Commissioners to gather information and recommend action on important issues. Annual review of these subcommittees will allow for necessary updates and changes.

**ATTACHMENTS:**

- A. Subcommittee list

# **Humboldt Bay Harbor, Recreation and Conservation District Board of Commissioners Subcommittees**

## **Ordinance No. 7 (Billboards) Subcommittee**

Est. 09.10.2020

Higgins and Kullmann

## **Offshore Wind Energy Subcommittee**

Dale and Marks

## **Budget**

Dale and Doss

## **Labor Relations**

Doss and Kullmann

## **Dredging**

Doss and Higgins

## **Shelter Cove/RID**

Dale and Higgins

## **Samoa Peninsula Infrastructure Subcommittee**

Est. 08.13.2020

Doss and Marks

## **2x2 Committee (Eureka/Harbor District)**

Doss and Marks

## **Humboldt Bay Development Association**

Higgins and Marks