



MEMO

To: NCRA Board of Directors

From: Executive Director Stogner

Date: February 18, 2021

Subject: **Agenda Item E.1** – Discussion and Possible Action Authorizing Counsel to Circulate and File all Documents Before the Surface Transportation Board as Necessary to Effectuate Railbanking of MP 139.5 near Willits to MP 284.1 near Eureka Including Related Branch Lines

Background Information

SB 1029 (McGuire), effective January 1, 2019, requires the California State Transportation Agency (CalSTA) to undertake an assessment of the North Coast Railroad Authority (NCRA) to determine the most efficient way to dissolve the NCRA and dispense with its assets and liabilities. The primary goal of the legislation is to transfer freight responsibility on the south end of the line from NCRA to SMART, the local agency currently providing commuter service in Sonoma and Marin Counties, and to begin the process of “railbanking” the northern stretch of the line in Mendocino, Trinity, and Humboldt Counties, through the Eel River Canyon, for creation of the Great Redwood Trail, a multi-use trail to be enjoyed by locals and visitors worldwide.

In furtherance of these goals, NCRA was asked by the CTC staff to develop a Strategic Plan outlining NCRA activities to date and future plans to implement the provisions of SB 1029, with emphasis on plans to create the Great Redwood Trail in Mendocino, Trinity, and Humboldt Counties and plans to transfer freight railroad responsibility to SMART in Sonoma, Marin, and Napa Counties. The Strategic Plan, which set forth necessary steps toward completing the transition to the Great Redwood Trail, including railbanking, was approved by the NCRA Board on November 16 and by the CTC on December 3, 2020. The transfer of the southern portion of the line to SMART was approved by the NCRA Board on December 17, a process which is proceeding as of the date of this report.

Railbanking is a federal process (please see attached background memo from June 9 Board meeting) regulated by the Surface Transportation Board (STB) whereby a railroad right-of-way can be protected for future use even if it is not currently in use for rail

transport. NCRA proposes to railbank the northern section of its railroad corridor, initially beginning in Willits (MP 139.5), and continuing north, through the Eel River Canyon all the way to the Port of Humboldt Bay, including the three branch lines in Humboldt County.

Railbanking Preparation and Next Steps

NCRA has retained experienced railbanking counsel, Charles Montange, with responsibility for the development of a railbanking plan for the north end of the line from Willits to Eureka/Arcata. Mr. Montange has been working extensively with staff and General Counsel in preparation for the request to the STB to railbank the northern portion of the NCRA line.

The railbanking process will require several filings with the federal Surface Transportation Board (STB), which will proceed if the NCRA Board approves the proposed action. As a preliminary matter, NCRA must undertake certain filings before the STB to clarify the status of operators on the line, likely a notice of adverse discontinuance, seeking removal of historical reference to NWPY, a predecessor in interest to NCRA that has remained the operator of record before STB on a portion of the northern line notwithstanding the fact that it has been out of service for many years. Additionally, NCRA must circulate the required environmental and historical reports, which have been drafted by railbanking counsel, prior to formal initiation of the railbanking itself. After completion of the circulation and commenting process, railbanking counsel for NCRA will file for abandonment authority from the STB, and request that the line be railbanked in lieu of full abandonment. After commencing the formal railbanking process, counsel and staff will work to resolve any related issues before the STB and would return to the NCRA Board for further input and direction as the need arises.

Staff Recommendation:

Staff recommends that the Board authorize counsel to commence and pursue the railbanking process before the STB, including but not limited to requesting discontinuance of existing operators, completing all circulation, and filing of historical and environmental reports, and requesting abandonment and railbanking of NCRA right-of-way north of MP 139.5, in the form determined by counsel.