



2.0 COMMENTS AND RESPONSES ON THE DRAFT EIR

This section addresses the substantive written comments on the revised and recirculated DEIR or the previously circulated DEIR where requested. NCRA received a total of 24 comment letters during the 45 day comment period following revision and recirculation of the DEIR.

Responses to each comment are provided in the following sections. Some comments are responded to directly. Others are referred toward one or more master comment. Revised text as a result of a comment is presented in Section 3.

2.1 MASTER RESPONSES (MR)

Master responses are provided for comments that were repeated numerous times by several authors, require lengthy discussions to address, or require information to allow responses to be placed in a broader context. A total of 10 Master Responses were developed for this FEIR, and are summarized in Table 2.1-1. Many of the individual responses also reference one or more master response.

Table 2.1-1: Summary of Master Responses

Master Response	Title	Issues Addressed	Page
MR1	Project Description and Segmentation	<ul style="list-style-type: none"> • Project Description • “Whole Project” • Rail improvements and sidings • Rehabilitation activities • Environmental Consent Decree • Eel River Division • Baseline for the ERD 	
MR2	Economic Viability of the RRD	<ul style="list-style-type: none"> • Feasibility of the RRD Proposed Project • Understated traffic base • Capital Plan • Overstated expenses • Financial projections 	
MR3	Mitigation Measures, BMPs, and Agency Approvals and Permits	<ul style="list-style-type: none"> • Air quality • Biology • Sufficiency of studies • Deferred mitigation • Water • 401 Certificates • Hazardous material • BMPs • WDRs 	
MR4	Novato Consent Decree	<ul style="list-style-type: none"> • Truck trip displacement • Support of air quality benefit • Additional requests for Quiet Zones 	
MR5	Project Alternatives	<ul style="list-style-type: none"> • Selection of alternatives • Reduced freight train alternative • Biofuel alternative 	



2.0 COMMENTS AND RESPONSE ON THE DRAFT EIR

Master Response	Title	Issues Addressed	Page
		<ul style="list-style-type: none"> • Relocation alternative • Other alternatives considered 	
MR6	Cumulative Impacts	<ul style="list-style-type: none"> • Use of SMART data • SMART and NCRA peak period operations • Pedestrian safety • SMART and NCRA joint operations • Projects not included 	
MR7	Funding	<ul style="list-style-type: none"> • Funding for mitigations • Public funding • Federal funding and NEPA 	
MR8	NCRA Trail Project Guidelines	<ul style="list-style-type: none"> • Purpose of guidelines • Proposal of trails • Rails-with-Trails 	
MR9	FRA Regulations	<ul style="list-style-type: none"> • Safety and enforcement • Required inspections, track, tunnels, and locomotives 	
MR10	Environmental Consent Decree	<ul style="list-style-type: none"> • History • Past and present efforts • Status of compliance 	

2.1.1 MR 1: Project Description and Segmentation

Project Description

The CEQA Guidelines set forth specific requirements for a project description, CEQA Guideline § 15124. These guidelines mandate a general description of the project’s technical, economic, and environmental characteristics, which consider the principal engineering proposals if any and supporting public service facilities. (CEQA Guidelines § 15124(c).) The project description itself “should not supply extensive detail beyond that needed for evaluation and review of the environmental impact.” (CEQA Guidelines § 15124.) Comments requesting that the project description fully describe, provide mile-by-mile descriptions or otherwise include extensive details seek to impermissibly expand CEQA’s definition of a project description.

“Whole Project”

Some comments imply and others state that the DEIR violates CEQA because the project description fails to account for the “whole project”. This is a misstatement. There is no artificial narrowing of the project description; this DEIR treats the entire 142 miles of track, as well as the area surrounding the rail corridor. The project description provided in NCRA’s DEIR includes all relevant parts of the proposed project, including the fact that the rehabilitation activities from Lombard to Windsor are considered a separate project from the proposed project. Thus, the proposed project description is proper and complete.

Some comments imply and others state that either the Project Description or the cumulative impact analysis, or both, are flawed because of the existence of another, northern leg of existing but unusable tracks. This section, the Eel River Division (ERD) is not now, nor is it reasonably foreseeable to become, part of this project. Comments



attempt to cobble together studies not cited and data not analyzed or referenced in the DEIR to support a conclusion that economics demand expansion into the ERD. This is conjecture, unsupported by fact. Mere speculation, even if it is based on economics, is insufficient to require that the ERD be explored, studied, permitted and completed.

Rail Improvements and Sidings

Comments surrounding the Project Description state concerns that each and every rehabilitation activity or siding are not spelled out in the DEIR. Site-specific details are not required in a project description. (CEQA Guidelines § 15124(c).)

The exact need for sidings is dependent on the service schedules of the combined SMART and NCRA operations. Basing CEQA analysis on the wholly speculative passenger service schedule and purely theoretical freight service assumptions, as some comments request, may either understate or overstate any potentially significant impacts; this is true because SMART and NCRA have yet to determine these schedules. For these reasons, specifically discussing the impacts of siding placements is presently premature and permissibly deferred.

Rehabilitation Activities

Rehabilitation activities from Lombard to Windsor were covered by a Notice of Exemption that was posted in July of 2007 and considered a separate project from the proposed project under CEQA. The statute of limitations to challenge this notice of exemption lapsed in August of 2007. If an approval is not challenged in the time and manner required by CEQA, there is a conclusive presumption that the action is valid.

Environmental Consent Decree

NCRA is required to be in compliance with an Environmental Consent Decree (ECD) that was signed by the North Coast Regional Water Quality Control Board (NCRWQCB), Department of Toxic Substance Control (DTSC), and Department of Fish and Game (DFG) on July 14, 1999. The purpose of the ECD is to prevent environmental impacts associated with the past, current, and future operations of the railroad. The ECD is a mandated non-discretionary action. While NCRA does not agree that the ECD is subject to CEQA because the ECD is not discretionary, if CEQA were applicable, the statute of limitations to challenge the environmental review or non-review lapsed 180 days after execution of the ECD or on January 10, 2000. Since the ECD was not challenged in the time and manner required by CEQA, there is a conclusive presumption that the ECD is valid as to CEQA.

Eel River Division

The proposed Project Description is sufficient to allow an adequate evaluation of the project's environmental impacts. Comments erroneously state that the ERD is, in fact, part of the instant project. As discussed below, this is incorrect. Commenter's state concerns that the DEIR fails to disclose or analyze the impacts of the true project purpose. The proposed project's true purpose is clearly discussed in the Project Description, and throughout the DEIR. Further, facts prohibiting development of the ERD are detailed in the DIER. Citations in comments speaking to potential expansion contingent on market demand, environmental clearance and the availability of funding



2.0 COMMENTS AND RESPONSE ON THE DRAFT EIR

highlight some, but not all, of the reasons why the ERD is not included in the proposed project. Speculation about future expansion, expansion that is currently infeasible and highly improbable in the foreseeable future, is not required of an EIR.

Cases cited in support of these propositions are inapposite. For example, *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859 describes an EIR as inadequate as it failed to discuss other pending project proposals. Comments here imply that a related project is pending (ERD rehabilitation) yet point to no permits, project descriptions or other facts supporting this implication. In addition, NCRA has made no enforceable or binding commitments to resume service in the ERD. Any further, related projects are pure speculation. The proposed project is not reliant on the passage of any other, related project in order for operations, as planned and discussed in this DEIR, to commence.

Citations to *Laurel Heights* at 47 Cal.3d 395-397 provide support for the DEIR's current environmental analysis, "[w]here future development is unspecified and uncertain, no purpose can be served by requiring an EIR to engage in sheer speculation as to future environmental consequences." (*Id.* at 395.) This is precisely what is being asked of this DEIR. Any future expansion into the ERD is pragmatically prohibited, as is acknowledged by several comments.

Additionally, as the scope and breadth of comments relating to the instant project highlight, this is a unique and complicated project. The RRD was operated for many years by Southern Pacific Railroad as a separate division for operational efficiency in recognition that the RRD and ERD presented different operational issues, which demonstrates that the RRD has utility independent of the ERD and that the RRD does not operate in conjunction with the ERD. The RRD is of substantial length and is between logical terminal points. The RRD track is 142 miles long and extends from the City of Willits in Mendocino County to Lombard in Napa County. The northern terminus of the RRD is Willits, a population center which historically served as the northern terminus of the RRD.

Comments challenging the ability of the RRD to function without expansion into the ERD state that CEQA requires analysis of the impacts of potential expansion into the ERD in the instant EIR. These comments misinterpret the case law cited. *Del Mar Terrace Conservancy, Inc. v. City of San Diego* (1992) 10 Cal.App.4th 712, 736-737 states that:

"[w]here, however, environmental review of one project includes in general terms discussion of the potential effects of an anticipated future project, which is still contingent upon the happening of events which are currently outside the powers of the decision maker to cause, we do not believe such an EIR can be said to have failed to fulfill its purpose of providing adequate, complete, and good faith efforts at full disclosure of information about the effect which the proposed project is likely to have on the environment."

This is akin to the instant situation. Although a potential future project is a possibility, whether or not such project actually comes to fruition depends on a myriad of unknown facts, each outside the powers of the decision makers here to cause. An EIR need not discuss specific future action which is now merely a gleam in a planner's eye. (*Id.* at 738, citing *Laurel Heights* at 47 Cal.3d 376, 398.)



Likewise, arguments that the economics of the project, as described in the Project Description, require the ERD to function properly ignore the weight of the pragmatic prohibition to completing this leg; no funds exist to pay for the extensive assessments, reports, repairs and permits which would be necessary prerequisites.

Baseline for ERD

Arguments stating that the baseline for the ERD environmental evaluation should be established now misstate CEQA's requirements. CEQA guideline § 15125(a) are clear: "[an EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. Although, if the ERD's "region" can be said to include four counties, hundreds of miles to the south (and this is a precarious assertion) regional perspectives could potentially be established now, no local perspective may be analyzed at this juncture.

The "region" for the ERD is the ERD. Knowledge of the regional setting is critical to the assessment of environmental impacts. (CEQA Guideline § 15125(c).) The local perspectives will require input from the many communities in the ERD. As this DEIR demonstrates, a myriad of environmental review is required, and similar to this DEIR, if any expansion was to occur, hundreds of miles of land would require various environmental reviews to take place without any indication of what the final project would look like. Setting the baseline as though the ERD and the RRD are the same project is improper.

Requiring prospective environmental analysis of the ERD would be the type of speculation CEQA has determined to be purposeless.

2.1.2 MR 2: Economic Viability of the RRD

The operation of the proposed freight railroad in the RRD is economically viable and an independent utility. This is evident from the fact that in 2006 NCRA issued a Request for Proposals to the railroad industry and received proposals from four private railroad operators. Obviously a private operator would not be interested in taking on the operation of a railroad if they did not consider it an economically viable operation. The selected operator, NWP Co., did prepare an economic analysis before entering into a contractual agreement with NCRA to operate the RRD freight railroad. Previous and ongoing discussions have taken place with industry along the RRD line and there is significant interest by industry in using a more cost efficient and environmentally sound alternative to transporting cargo by heavy duty diesel trucks.

The Long Term Financial Feasibility of the Northwestern Pacific Railroad

Several commentators claim in their DEIR comments that the proposed project in the Russian River Division is not economically viable, based on the July 2002 study entitled *The Long Term Financial Feasibility of the Northwestern Pacific Railroad*. That Study was sponsored and paid for by the Humboldt Bay, Harbor, Recreation and Conservation District and its focus was on the entire NWP, extending from Humboldt Bay to Lombard, not on the RRD.



The commentators are incorrect to claim that any portion of that Study found that the Russian River Division would not be financially viable. Indeed, the Study's comment that ". . . the fixed costs of operating a railroad are too high to support the proposed 141-mile route between Willits and Schellville . . ." (page S-12) is unsupported by any factual analysis whatsoever. Specifically, the Study understated the RRD traffic base, overstated significantly the operating costs of the RRD, provided no financial projections of the RRD, as a stand-alone entity, and failed completely to consider the magnitude of the capital investment that has been made with TCRP Funds in the RRD by the State of California.

Understated RRD Traffic Base

Although the Study acknowledged that the key to NWP's success would be the development of new markets, the Study made no assessment or traffic projection of the solid waste potential rail traffic in either Mendocino County or Sonoma County, the latter being an important projected source of traffic for NWP Co. Similarly, although the Study identified the potential for 6,270 carloads of aggregate per year originating in the Willits area, none of this traffic or its revenue or its profit was attributed to the Russian River Division.

No RRD Capital Plan Considered

The Study did not consider a Capital Plan for either the NWP Line as an entity or for the RRD as a stand-alone entity. In fact, the Study recommended as a "next step" the analysis of the relationship that a NWP Co. Capital Plan would have to its Study (page S-12). The Study's projected operation of an un-rehabilitated railroad was, therefore, an important underlying assumption of the Study, whose effect was to require a substantially larger work force for maintenance and operation than would have been projected if the Study had considered a Capital Plan and had integrated a realistic capital and rehabilitation plan into its financial analysis.

To illustrate, the Study's Operating Scenario I, that combined the RRD with a projected rail operation between South Fork and Arcata, projected annual maintenance of way expenses of \$2.7 million annually, or about \$15,000 per mile; that amount is approximately three times the maintenance expenditures of a Class 3 railroad that has implemented a reasonable Capital Plan.

Overstated RRD Expenses

Similarly, the Study's Operating Scenario I cost inputs contained in Attachment B-3 project that a total of 53 employees, including an administrative staff of 12, with General and Administrative expenses of \$4.6 million will be required to operate just the RRD and the South Fork-Samoa. These employee projections are far too large for the operation of a rehabilitated and efficiently managed RRD.

No Financial Projections for the RRD

The Study contains no financial projections for a stand-alone RRD. What is shown in the financial projections for Operating Scenario I are a combination of operations on the RRD with the projected operations of the South Fork-Samoa portion of the NWP.



Operating Scenarios II and III address the entire NWP under varying assumptions, not just the RRD.

The combination of understated revenues, overstated expenses, no consideration of a RRD or NWP Capital Plan, and no financial projections for a stand-alone RRD demonstrate that there is no factual basis within the Study for commenter's assertions that the RRD has no long-term economic viability. In fact, such assertions are simply wrong.

2.1.3 MR 3: Mitigation Measures, BMPs and Agency Approval/Permits

Comments state a concern that some of the mitigation measures do not contain enforceable performance standards or work practices for decision makers to weigh or adopt decisions relating to the potential impact. The comments raised appear to be objecting that some mitigation measures are improperly deferred mitigation. Further, these comments state a concern that some mitigation measures reference compliance with "specific permit conditions" without specifying which permits and exactly what conditions are being referenced. Comments noted that species-specific surveys for every possible animal and plant were not conducted.

The following addresses these concerns by discussing concerns with specific resource areas and mitigation measures.

Air Quality

Comments state a concern that Mitigation Measures such as AQ-BC1; AQ-FC1; AQ-BP1; AQ-NCD1 do not contain enforceable performance standards or work practices for decision makers to weigh or adopt decisions relating to air quality. Specifically, these mitigation measures relate to the potentially significant impact of dust and other criteria air pollutant emissions produced by power equipment employed in rehabilitation and construction activities.

The comments appear to be objecting that the mitigation measures are both unfeasible and improperly deferred mitigation. Feasibility speaks to the potential success of a measure, the issue of whether the mitigation measures described will actually result in any reduction of the impacts. (CEQA Guidelines § 21060.1.) The DEIR addresses the fact that a potentially significant impact has been identified. Likewise, the DEIR identifies specific measures to mitigate the potential impact. Table 3.1-1 provides specific and mandatory performance standards and the mitigation measures describe various methods (e.g. short periods of use; dust mitigation) by which the stated performance standards may be met. This is a proper method of mitigation, as described by 14 CCR § 15126.4(a)(1)(B). There is no requirement that these measures must be shown to be absolutely necessary, and the DEIR need not mandate that the need for the measure is absolute; "[i]f the agency has identified one or more mitigation measures and has committed to mitigating the impact those measures address, then the principles forbidding deferral of mitigation are not implicated." (*California Native Plant Society* (2009) 172 Cal.App.4th 603, 623.)

These mitigation measures relating to air quality are proper, as they do not defer the formulation of mitigation measures until after project approval. Instead this DEIR recognizes that these activities will potentially have a significant environmental impact;



that potentially significant impact will take the form of generation of dust and other criteria air pollutant emissions produced during rehabilitation and construction activities. Further, the DEIR goes on to formulate measures to mitigate the impacts: shortened duration of use; meeting CARB standards; dust mitigation, etc. Under CEQA, the details of exactly how the mitigation will be achieved under the identified measures may be deferred and, at this phase of the project, the DEIR need not commit to any particular mitigation measure described, so long as it commits to mitigating significant impacts on the environment. (*California Native Plant Society* (2009) 172 Cal.App.4th 603, 621.) The mitigation measures described meet this standard.

Biology

Comments relating to biological impacts discuss the issue of species-specific surveys, both plant (such as impacts BIO-BC6; BIO-NCD2) and animal (such as impact BIO-BC1; BIO-BC2; BIO-FC1; BIO-FC2; BIO-FC3; BIO-FC6; BIO-BP1; BIO-NCD4; BIO-0P2; BIO-0P3). Similar arguments are made regarding wetlands (such as impacts BIO-BC3; BIO-BC4; BIO-FC4; BIO-LS1; BIO-NCD1). Comments note that species listed as endangered or special status are mentioned in the DEIR, though species-specific surveys for every possible animal / plant were not conducted. Further, these comments state a concern that mitigation measures reference compliance with "specific permit conditions" without specifying which permits and what conditions are being referenced. (e.g. Mitigation Measures BIO-BC4; BIO-BC6.)

Studies are Sufficient

This is a particularly unique project, spanning approximately 142 miles of railroad tracks traversing through four counties. In order to determine the scope of biological resources potentially impacted by the project, an initial study of the entire 142 miles of the project area was conducted. Based on the findings of this original study, further more detailed studies spanning the proposed project area, as well as into the area surrounding the rail corridor, were undertaken. These studies are in addition to those conducted by SMART in its EIR. Cumulative impacts of the SMART and NCRA projects are also discussed in the DEIR.

In addition to the substantial length of the project area (although the width of the project is relatively narrow), additional difficulties relating to conducting more detailed studies at this time stem from the yet-negotiated Coordination Agreement between SMART and NCRA; this agreement will dictate operational factors which are currently wholly unknowable. Thus, questions such as what times of days trains will run through various segments of the project area are not, at this phase of the project, known. Still, NCRA has employed teams of biologists and engineers to determine the scope of potential impacts which may result from the proposed project and the related rehabilitation activities required to begin rail service.

Beginning with the Initial Study, finalized in July, 2007, and through May of 2010, more than \$2.8 million dollars have been spent conducting environmental review and analyzing potential mitigation measures. NCRA's focused efforts to highlight any and all potentially significant impacts and to produce mitigation measures crafted to provide paths to successful mitigation of each potentially significant impact are included both in the DEIR and attached as appendices. Some comments concern the level of specificity in the environmental review and studies conducted. Because the timing of trains (e.g.



day or night travel) and other operational factors have yet to be determined, and because of the highly unique linear nature of this project, the goal of studies prepared to date was and is to identify potentially significant impact and to establish mitigation options to render these potentially significant impacts less than significant. This is in line with CEQA's mandate that the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible, and based on a good-faith effort at full disclosure. (CEQA Guideline § 15151.)

The biological resources element of the DEIR is supported by the several types of field studies, produced as Appendices D and E to the DEIR. Comments imply that every potential special status plant should be studied and all permit conditions identified. Field studies are considered substantial evidence sufficient to support a finding regarding whether a project will have a substantial adverse impact on a given species. "CEQA does not require a lead agency to conduct every recommended test and perform all recommended research to evaluate the impacts of a proposed project. The fact that additional studies might be helpful does not mean that they are required." (*Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1396.)

A biological field study of the proposed project area was initially conducted, followed by multiple reconnaissance-level surveys (See Appendix D). These surveys were augmented by a wetlands survey (See Appendix E). These scientifically conducted surveys contain sufficient information and analysis to enable the public to discern the analytic route the agency traveled from evidence to action. CEQA requires only that the public and public agencies be presented with adequate information to ensure that decisions be informed, and therefore balanced. (*Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1398.) The DEIR, including Appendices D and E, satisfies this threshold.

Deferral of Mitigation Measures

Comments regarding Mitigation Measures such as BIO-BC3, BIO-BC4 and BIO-BC6 state a concern that the biological studies and field studies alone, without any accompanying commitment to protect or restore the rare plants discovered, do not sufficiently mitigate potential impacts. Deferral is impermissible when an agency simply requires a project applicant to obtain a biological report and then comply with any recommendations that may be in that report. (*Cf. Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1275.) Deferral is permissible where the agency commits itself to mitigation and lists alternative means of mitigating the impacts which must be considered, analyzed and possibly adopted in the future. (*Ibid.*)

The DEIR describes potentially significant impacts. Identified in Mitigation Measures BIO-BC3, BIO-BC4 and BIO-BC6 are the potentially significant impacts of: damage to sensitive vegetation and wildlife habitat within temporary work areas; damage to vegetation, soil and/or roots and animal burrows by parking and/or placement of equipment and materials; accidental spill or release of hazardous materials; and spreading and/or introducing invasive or noxious weeds. To remedy these potentially significant impacts, the DEIR commits itself to mitigation and lists options to be considered, analyzed and adopted. These measures include: locating construction access, staging and storage on appropriate areas; limiting vehicle travel to stated areas; conspicuously marking sensitive areas outside the proposed work area; educating workers; employing qualified on-site biologists to monitor mitigation activities; use of



listed BMP's; and obtaining and complying with permit conditions. The DEIR meets the standard of appropriate deferral.

Certainly, there are additional studies which could be conducted along the 142 mile project area. However, the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the proposed project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. CEQA does not require that every possible test or study be conducted. (CEQA Guideline § 15204.) "Feasible" means capable of being accomplished in a successful manner within a reasonable amount of time, taking into account, environmental, economic, social and technological factors. (PRC § 21061.1.) In light of the geographic scope and magnitude of this proposed project, the millions of dollars of studies conducted, documented and submitted for public comment and review, and the spectrum of biotic data gathered and analyzed all properly commit NCRA to mitigation, and properly identifies alternative means of mitigating these potential impacts.

Case Law Cited re: Deferral of Mitigation Measures is Distinguishable

Comments cite to *Endangered Habitats League* (2005) 131 Cal.App.4th 777, 793) in support of argument regarding proposed mitigation measures.

Comments are concerned that mitigation measures for biological resources are inappropriately deferred. The deferral in *Endangered Habitats League* required that the project proponent submit an acoustical analysis and mitigation measures prior to issuance of a grading permit. (*Id.* at 793-794.) That deferral was deemed improper because "[n]o criteria or alternatives to be considered are set out. Rather, this mitigation measure does little more than require a report be prepared and followed, or allow approval by a county department without setting any standards." (*Ibid.*) These facts are not on all fours with the facts of the instant project.

The NCRA project's mitigation measures are properly deferred, as the presence of migratory and seasonally-nesting birds may not be effectively mitigated at this phase of the project; it is still unknowable whether and how many of any given species will be present at the time operations commence. For this reason, the DEIR sets forth specific criteria and performance standards to be adhered to and merely puts off further approvals contingent on meeting applicable standards. Such deferral of mitigation measures is appropriate. (*Cf. Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1275.)

Water

Comments regarding Mitigation Measures such as WR-BC1b and WR-LS3 are concerned that these mitigation measures are, in fact, compliance measures. However, case law cited in support of this proposition is distinguishable from the facts of the instant project. In *Californians for Alternative to Toxins v. Dept of Food & Agriculture* (2005) 136 Cal.App.4th 1, the project proponent argued that its compliance with the Department of Pesticide Regulations (DPR) use instructions for pesticides was sufficient to reduce the environmental impact to less than significant. The court refused to allow mere compliance with the DPR as evidence that the impact was reduced to an insignificant level, as the DPR's regulation "does not and cannot account for specific uses of pesticides" in the planned project. (*Id.* at 17.)



Here, the DEIR Mitigation Measures in question commits to comply with terms of a streambed alteration agreement with DFG (WR-BC1b) and implement procedures, BMP's and monitoring programs as required by the regulatory agencies (WR-LS3). Permits, procedures and programs issued for and implemented in a particular, precise project is far different than a clearinghouse registering chemicals, void of reference to a given project or location. In fact, such mitigation measures are properly deferred: deferral is permissible where the agency commits itself to mitigation and lists alternative means of mitigating the impacts which must be considered, analyzed and possibly adopted in the future. (*Cf. Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1275.). For WR-BC 16, NCRA will comply with regulatory standards required by DFG, the agency with regulatory authority for streambed alterations.

The rehabilitation and construction activities identified as potentially significant commit NCRA to mitigation. Seeking, obtaining and complying with a Streambed Alteration Agreement or procedures, BMP's and monitoring programs required by regulatory agencies do more than merely state that a biological report will be acquired and obeyed. Instead, these mitigation measures look down the road and articulate criteria (e.g. terms of streambed alteration agreement or monitoring programs required by regulatory agencies) and require adherence to the terms of these measures.

The DEIR's treatment of these issues is sufficient, as the impacts (e.g. Impact WR-L53) consider the potential for *hypothetical* adverse impacts and/or *accidental* discharge of oil or other contaminants. These potentially significant impacts may not reasonably be mitigated at this juncture; the purpose of the mitigating measure is to recognize that a potentially significant impact exists and list alternative means of mitigating the potentially significant impacts, which then must be considered and analyzed for possible adoption in the future. Such pragmatic deferral is proper and permissible under the circumstances.

401 Certificates

Comments request that NCRA obtain 401 certificates prior to circulating its DEIR for the instant project. Appropriate deferral of mitigating potentially significant impacts on streams and waterways is appropriate under CEQA. In fact, the Regional Water Quality Control Board may not issue any 401 Certificates until CEQA compliance has been demonstrated.

Some comments relate to Table 3.2.1 and state a concern that the conditions which will be contained in these future permits may themselves contain potentially significant impacts, and that discussion of these potential impacts is required in the DEIR. Table 3.2.1 highlights the necessary permits regarding Regulations and Policies regarding Wetlands and Watercourses. This table does not state whether and which potentially significant impacts stem from each of these permits, but simply intends to demonstrate the regulatory setting in which the biotic elements of this project may be considered. Adherence with the existing regulatory structure is required. The mitigation measures anticipated to remedy any potentially significant impacts stemming from the activities requiring permits are discussed in detail on pages 3.2.49-3.2.68, and are broken out in Table 3.0-1 of the DEIR.



Hazardous Materials

Comments cite to *Californians for Alternatives to Toxics* (136 Cal.App.4th 1, 17) to support an argument that the mitigation measures provide insufficient information for the public and decision makers to fully assess the ability of the mitigation measures to reduce the project's impacts to a less than significant level. Specifically, these comments are concerned that mitigation measures for potentially significant impacts are insufficient under CEQA because they are based on requirements of another agency.

In *Californians for Alternatives to Toxics*, mitigation measures referring to a state clearinghouse for pesticides was not devised with environmental impacts for statewide application of a pesticide, and as such was improperly used as a reference supporting the notion that pesticides on the list were safe for the use intended by the project. In the underlying case, *Oro Fino Gold Mining*, the court rejected an argument that potentially significant impacts were avoided by adherence to requirements of a general plan. This line of cases is inapposite to the facts of the instant matter.

The mitigation measures proposed by the DEIR regarding potentially significant impacts from hazardous materials refer to stated BMP's, found in Appendix A of the DEIR. These BMP's list at least 14 different methods of mitigating the potentially significant impacts relating to hazardous materials. As is noted in the DEIR's discussion of hazardous materials, use of hazardous materials is regulated by the federal government. (See § 3.6.1.1.) An improper deferral of mitigation measures akin to those described in *Californians for Alternatives to Toxics* would simply refer to those federal measures and promise to obey them. This is not the analysis employed by the DEIR. Instead, the DEIR carefully identifies each potentially significant impact and refers not only to the federal standards, but a myriad of BMP's, each intended to remedy potentially significant impacts. The difficulty is determining, at this time, which mitigation measures will most artfully remedy any *actually* significant impacts.

For this reason, the need for mitigation measures is identified in the DEIR. Beyond the initial steps of identifying potentially significant impacts and identifying means of rendering impacts less than significant, this DEIR commits to remediating these impacts. Because the precise nature of the remedy required is yet-unknown, the mitigation measures list the potential means of mitigation which will be considered, analyzed and possibly adopted in the future. This is in line with *Californians for Alternatives to Toxics*, as well as other case law. (Cf *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1275.)

Waste Discharge Requirements (WDRs) and General Operating Permit

NCRA currently has a WDR issued from the NCRWQCB. The NCRWQCB had requested that NCRA submit a new report of discharge in order to update and revise the WDRs. However, after consultation with NCRWQCB and the other ECD agencies, it was decided that the most efficient and logical way to address the concerns that the ECD agencies had regarding the operation of the railroad and compliance with the ECD was to consolidate the ECD requirements into one document: a NPDES Industrial SWPPP for the entire RRD line.

The SWPPP will include requirements for grading and earth moving, vegetative control, light running maintenance, emergency fueling, other issues directly relevant to potential



impacts to natural resources via surface releases, and also to many concerns outlined in the ECD. The purpose of the SWPPP is to allow NCRA to resume operations in a safe manner and in compliance with the ECD, while recognizing that continuing cooperation with many other relevant agencies and obtaining site and resource specific permits are still required.

Best Management Practices (BMP's)

Comments requesting that specific permits and conditions be issued before circulating the DEIR seek more than what is required by CEQA. Deferral of mitigation measures in the DEIR are proper, because they do not defer the formulation of the mitigation measures until after project approval. Instead this DEIR recognizes that rehabilitation activities will potentially have a significant environmental impact.

Comments hoping to review potential RWQCB conditions at this phase seek to require premature formulation of the particular and specific remedies to be actually employed. The DEIR properly identifies potentially significant impacts, and further, the DEIR goes on to formulate measures to mitigate the impacts, e.g. identifying BMP's. Under CEQA, the details of exactly how the mitigation will be achieved under the identified measures may be deferred and at this phase of the project, the DEIR need not commit to any particular mitigation measure described, so long as it commits to mitigating significant impacts on the environment. (*California Native Plant Society* (2009) 172 Cal.App.4th 603, 621.)

2.1.4 MR 4: Novato Consent Decree

NCRA is required to be in compliance with a Consent Decree issued by the Superior Court of the State of California on November 3, 2008 (Novato Consent Decree [NCD]). This Consent Decree requires that approximately 17 miles of the track, between MP 35.5 and MP 18.7, be upgraded to include quiet zones, track welding, landscaping, and the addition of fencing on either side of the track.

The comments fall into two categories. First, they assert that the EIR fails to account for the effect of the NCD on truck trip displacement and air quality because the NCD limits operations to six days per week with 18 rail cars each. Second, several towns or cities requested that the upgrades (primarily the quiet zones) required by the NCD be applied to the entire length of the track or at least within their jurisdictions.

Displaced Trucks

The train trip restrictions of the NCD are temporary, and an EIR must analyze the worst case scenario, which means analyzing the maximum number of trains and rail cars that could operate as a result of approving the project. Failing to analyze the impacts of the largest number of trains and cars would violate CEQA, therefore, the EIR analyzed the higher number of cars and trains, as will be allowed when the conditions of the NCD are fulfilled and the restrictions lifted. The reduction of freight cars associated with the restrictions in NCD will not have a significant effect on the number of displaced freight trucks analyzed in the air and traffic analysis. The technical studies address the benefits of trucks displaced over the entire 142 miles of the rail road (vs ~17 miles of the NCD) and for ~ a 25 year duration (2033). The short period of time (approximately one year or less) that the number of rail cars will be restricted over an extremely small



portion of the track is insignificant compared to the years that were addressed in the technical studies for the overall project. Therefore the slight reduction in the number of displaced trucks during this short period of time will not have a meaningful impact on the reduction of greenhouse gases which will be realized by the implementation of the proposed project.

Requests for Quiet Zones

There is an established procedure identified in law which provides cities and towns the ability to obtain quiet zones. The procedure for establishing Quiet Zones is outlined in CFR§ 222.39 and provides that the public authority is responsible for requesting and implementing Quiet Zones and must seek concurrence from all railroads operating at the crossing. No city can require a railroad to install quiet zones. Under certain circumstances, railroads must work with cities to implement such zones, but only after cities have gone through the detailed notification and comment process at their own expense. The law also requires the cities to pay for the improvements unless other means of funding have been identified.

In addition, the State of California Public Utilities Commission (CPUC) in a letter dated December 8, 2009 to Mitch Stogner, stated their concern with the City of Novato's consent decree requiring quiet zones. They stated:

"The CPUC's rail Crossing Engineering Section (RCES) notes for the record that it believes that in all cases, the sounding of the locomotive horn results in a higher level of pedestrian and motorist safety when compared to not sounding the locomotive horn [as in a quiet zones]. Thus, we encourage the City [of Novato] to carefully research its quiet zone initiative ..."

2.1.5 MR 5: Project Alternatives

There were several comments on the adequacy of Chapter 5, the "Alternatives" section of the DEIR. Alternatives are governed by the "rule of reason," and an EIR is only required to consider a range of alternatives necessary to permit a reasoned choice for informed decision making. Moreover, a lead agency is only required to consider alternatives that would avoid or substantially reduce the significant effects of the project and that can feasibly attain most of the basic objectives of the project. An EIR may also conclude that no feasible alternative location exists. Here, the DEIR identified five criteria, or basic objectives, that must be met in order for the alternative to feasibly attain most of the proposed project's objectives, which are set forth on page 5-1 of the DEIR. Given the statutory mandate to reopen the existing rail line, selecting feasible alternatives was an extraordinarily difficult and limited the number of choices. Due to the statutory mandate to reopen the existing line, Alternative 1 – No Project is not considered feasible. NCRA considered the following three alternatives; however, they were also rejected as infeasible and thus, were not included in the EIR:



Reduced Freight Trains

Reduced freight trains may result in reduced noise and vibration impacts; however, this alternative is not economically feasible. As is set forth in the Project Description portion of the DEIR, NWP Co. has performed an economic analysis of the proposed RRD operations and the number of trains and cars proposed in the project are necessary for an economically viable operation. Because of this, operating the rail line with fewer cars or offering fewer trips per day is infeasible as it will not meet the project goals of economic feasibility; may not serve the needs of businesses along the rail corridor; and may preclude NCRA from being able to haul goods that are consistent with business demands along the rail corridor.

Biofuel Replacing Diesel Fuel

The SMART EIR analyzed using 20% biofuel to replace diesel fuel and concluded that using biofuel does not reduce environmental impacts of operating the rail line because biofuel is not as efficient as diesel fuel. Additionally, using biofuel may create significant new impacts from the proposed project because biofuel would require new infrastructure.

Relocation of the Rail Line

Relocating the rail line does not meet the proposed project's goals because it would be contrary to existing law. Specifically, relocating the rail line would not utilize the existing track, may change the number of trains and cars that NCRA could operate, may not meet the needs of the business corridor and, in fact, may not be located in the business corridor. Depending on the location, there may not be a market of goods to haul, and there may not be an alternative location that is conducive to safely operating a rail line. Additionally, relocating the rail line is infeasible because any alternative site would be beyond NCRA's jurisdiction. NCRA does not own or have legal rights to an alternative site, and purchasing an alternative site, either through condemnation or voluntary sales, is infeasible.

Other Alternatives Considered

NCRA considered other alternatives, but these were immediately excluded because they were obviously impracticable, infeasible, or not consistent with the statutory requirements of the proposed project. For example, several commenters demanded a study of a "rails to trails" option where the railroad would cease to exist and the line be converted to a bike and trail system. This and other alternatives were not considered because the statutory mandate requires NCRA to provide common carrier freight service.

In addition, the review of the feasible alternatives did not result in an environmentally superior alternative.

2.1.6 MR 6: Cumulative Impacts

A cumulative impact is an impact created by the combination of the project reviewed in the EIR together with other projects causing related impacts. (14 CCR § 15130(a)(1).)



SMART

The cumulative impacts of track use by both SMART and NCRA is discussed and analyzed in the Cumulative Impacts element of the DEIR in section 4.2, specifically section 4.2.3.1.

Comments criticize the Cumulative Impacts section of this DEIR for focusing on SMART's contributions to cumulative impacts and seeks inclusion of additional details about NCRA's operations in the Cumulative Impact analysis. This comment misstates the content of the DEIR's analysis of NCRA and SMART's cumulative impacts. The mere fact that discussions of NCRA and SMART's collective cumulative impact are not as detailed as the discussions relating to the potentially significant effects of the project alone does not impact the effectiveness of NCRA's DEIR. In fact, this is in line with what CEQA demands in a discussion of cumulative impacts. Discussions of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but such discussions need not provide as great detail as is provided for the effects attributable to the project alone. (CEQA Guideline § 15130(b).)

CEQA Guidelines require an EIR to describe and analyze cumulative impacts only if the impact is significant and the project's incremental effect is cumulatively considerable. (14 CCR § 15130(a).) No analysis is required if the impact is insignificant or the project's incremental contribution is not cumulatively considerable. The cumulative effects of the SMART and NCRA projects are discussed in NCRA's DEIR, as well as in SMART's EIR. However, the issue of NCRA's *funding* of track repair has little or no bearing on the *environmental impact* of such repairs; track repairs are discussed throughout the DEIR and in dozens of mitigation measures, where reasonably foreseeable, potentially significant impact relating to and/or resulting from track repairs is identified. Whether resources are applied to track maintenance should not affect the potentially significant impacts relating to track improvement throughout the 142 miles of the rail corridor.

AB 2224 & Peak Period Operations

The State's enabling legislation, AB 2224, created SMART and required that the district created by the legislation work to achieve a safe, efficient and compatible system of passenger and freight rail services. The passenger element "*shall operate in harmony with existing freight service that operates upon the same rail line*" (Gov. Code § 105001, emphasis in original.) Nothing in either the subject DEIR or in SMART's SEIR state that trains must run concurrently during peak SMART operations. However, as per existing State law, SMART's passenger service is required to be harmonious with freight service. It is in this vein that mitigation measures for track use were crafted. Still, SMART and NCRA have yet to finalize their coordination agreements, which will be subject to this statutory duty.

AB 2224 creates a myriad of new government code sections outlining the many mandated requirements for the creation of passenger and freight service along the RRD. Subject to these mandated requirements, identifying potentially significant impacts, coupled with measures designed to mitigate those potentially significant impacts are sufficient at this phase of the project.



Cumulative Impacts — Pedestrian Safety Measures

Comments relating to Mitigation Measure PFS-OP3a argue, correctly, that SMART owns the NWP right of way south of the City of Healdsburg. NCRA and SMART both expect that a bicycle/pedestrian pathway will be put in place. NCRA is obliged to identify potentially significant impacts and provide mitigation measures sufficient to reduce any potential impact to less than significant. NCRA's DEIR does just this. SMART's arguments relating to the propriety of SMART's own EIR's discussion of this potentially significant impact are discussed in the Cumulative Impact portion of NCRA's DEIR. Specific and particular mitigation measures may not reasonably be developed until a design has been finalized. Despite the absence of a final agreement, the situation of potentially significant impacts is recognized, addressed, and properly, potential mitigation measures are crafted and tabled for future application to this trail project. FFS-OP3b sets forth a specific performance standard – compliance with all CPUC and FRA regulations that must be met when future requests for bike and pedestrian paths are received.

SMART & NCRA Combined Operations

Text from DEIR pg. 4-14, as drafted, states that SMART's freight train schedules appear unrealistic in their representation of the freight capacity that NCRA's operator needs in the Ignacio to Cloverdale Corridor. Included in the DEIR, by way of example: if a solid waste train is ever operated, a potential cumulative impact is accommodating connecting train schedules. Discussion of this issue is appropriately detailed, as cumulative impacts need not be discussed in the same detail as effects attributable to the proposed project alone. (CEQA Guideline § 15130(b).)

Comments, specifically comments by SMART, seek to include the details of the yet-negotiated Coordination Agreement between NCRA and SMART as part of this DEIR. As SMART is aware, this agreement does not yet exist. The general time frames for SMART trains to run (e.g. every hour), specific time frames when they will run (e.g. every hour on the hour, starting at 9am), train lead time and other operational details have yet to be formulated. However, detailed potentially significant impacts (e.g. air quality) are identified and potential mitigation measures proposed, after recognizing the risk of the potentially significant impacts. (See table 3.0-1.) Thus, the details of the coordination agreement are appropriately deferred.

The project description properly identifies that night operation may occur. Further details are discussed in the Cumulative Impact section of the DEIR. The project description need only set forth a general description. (CEQA Guidelines § 15124.)

Until SMART's final infrastructure and commuter train schedules are made available to NCRA and its Operator, it cannot be determined whether or not both freight and commuter passenger service could be operated simultaneously during peak periods.

Within SMART's operating territory between Ignacio and Cloverdale, freight trains can meet SMART trains at the existing sidings at Burdell, Petaluma, Park Siding, Windsor, Bailache, Healdsburg, Lytton, Asti, and Cloverdale. This is because either SMART or NCRA's Operator's trains can fit between the siding switches without blocking public streets. Moreover, if NCRA's Operator's 60-car trains need to meet within SMART's service territory, they can do so at the existing sidings of Burdell (6,078 ft.) and



Geyserville (6,492 ft.), neither of which has public street or road crossings. Moreover, if 60-car freight trains need to meet 25-car freight trains or two freight trains of 25 cars each need to meet within SMART's service territory, they can do so at any of the ten sidings located at Burdell, Petaluma, Park Siding, Windsor, Bailache, Healdsburg, Lytton, Geyserville, Asti, or Cloverdale. It is, therefore, clear that NCRA's Operator's trains will be able to get out of the way of SMART trains, will not block traffic while doing so, and can also get out of the way of other freight trains.

Projects Not Included as Cumulative

The cumulative impacts analysis for the DEIR considers the impacts on the community generated by the proposed project in combination with other projects in and around the project corridor which have been completed over the past four years, are currently under construction or have been approved for future development. The list of projects identified on Table 4-1 Summary of Potential Cumulative Impacts, provides a list and brief summary of the projects that were evaluated. The projects that were identified to be further evaluated in the DEIR were done so based specific criteria provided in Section 4 of the DEIR. Key criteria included that the projects were either reasonably foreseeable or expected to be constructed or operated in the vicinity of the proposed project and considered to have the potential of a significant cumulative impact in combination with the proposed project.

The list of projects provided on Table 4-1 was compiled based on discussions with various local planning agencies, Caltrans, non-profit housing agencies, developers, and commercial real estate brokers.

There were some commenters who requested more specific information regarding why certain projects were not included in the cumulative impact analysis. The following provides additional information in that regard.

1. Harris Quarry Expansion—Expansion of current operation. A DEIR was submitted. The current project is being revised and it is unknown as to when a new application will be submitted. See Section 4.4.2.
2. Town Green Village Phase I, Windsor: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
3. Town Green Village Phase II, Windsor: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
4. Town Green Village Phase III, Windsor: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
5. Dutra Haystack Landing Asphalt and Recycling Facility: Initial application was deemed incomplete in February 2010. Accordingly, the proposed project and application materials are in the process of being revised. Thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
6. Sonoma Land Trust--Sear's Point Restoration. The Draft EIR/EIS was completed and submitted.



2.0 COMMENTS AND RESPONSE ON THE DRAFT EIR

7. Port Sonoma: A NOP has not been posted, and the project is speculative.
8. Schellville Levee Repair: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
9. Steel Lane U.S. 101 HOV Widening Project: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
10. Rte. 12 Widening Project at Jamison Canyon: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
11. Rte. 116 Widening Project: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
12. Farmers Lane Extension Project: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
13. Yolanda Lane Widening Project: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
14. Santa Rosa Avenue Widening Project: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
15. Stony Point Road Widening Project: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
16. Bridge Housing, Santa Rosa: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
17. Burbank Housing, Santa Rosa: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
18. Proposed Food and Wine Center, Santa Rosa: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
19. Santa Rosa Railroad Square Station Transit-Oriented Development, Santa Rosa.
20. Federated Indians of Graton Rancheria Hotel and Casino Resort, Rohnert Park: Although the FEIR has been certified, the proposed project has been in litigation (see Stop the Casino, et al v. Salazar, et al), and, thus, there's a high probability that construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
21. Mountain Shadow Apartments, Rohnert Park: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.



2.0 COMMENTS AND RESPONSE ON THE DRAFT EIR

22. Cotati Station Townhomes, Cotati/Rohnert Park: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
23. Turnbridge Homes, Petaluma: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
24. Basin Street Landing, Petaluma: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
25. Petaluma Depot Station Transit-oriented Development, Petaluma.
26. East Washington Place, Petaluma: Although the FEIR has been certified, the proposed project has been in litigation.
27. Redwood Landfill Expansion, Marin County. Currently in operation seeking permits for landfill expansion. The FEIR has been certified. See Section 4.4.2.
28. Gross Field Proposed Extension of Runway 13/31, Marin County. See Section 4.4.2.
29. Redevelopment of Fireman's Fund Office Campus, Novato: Although a proposal has been submitted by the developer, the NOP initiating the CEQA process has not been posted. Moreover, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
30. Improvements to Redwood Blvd. and U.S. 101 Southbound Ramps at San Marin Drive, Novato: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
31. The Millworks/Whole Foods, downtown Novato: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
32. Albertsons Grocery Store, Novato: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.
33. Olive Ave. Improvements, Phase III (between Redwood and Railroad Avenues), Novato: This project was completed and, thus, construction related impacts will not be concurrent with those identified from NCRA. See Section 4.4.2.

2.1.7 MR 7: Funding

Funding for Mitigation Measures

The comments aver that NCRA may not perform BMPs and mitigation measures because NCRA has no known source of funding. The DEIR identifies mitigation measures, which include BMPs, and NCRA will adopt a Mitigation Monitoring and Reporting Program (MMRP) in accordance with Public Resources Code section 21081.6(b) and CEQA Guideline section 15097. Under CEQA, the lead agency is required to adopt an enforceable MMRP, and a lead agency may delegate reporting and monitoring to another public entity or a private party.



These comments were not considered significant because they are misplaced. CEQA does not require a lead agency to evaluate the financial adequacy of the applicant. Instead the State Legislature chose only to require the lead agency to adopt an enforceable mitigation program. The Legislature specifically found that incorporating mitigation measures into conditions of approval is sufficient to show that the measures are enforceable as is set forth in Public Resources Code section 21081.6(b) and as was upheld in *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1116. Thus, the acts requested by the Mann Conservation League are potentially void because they exceed a lead agency's authority.

Project Funding/Public Funds

The comments assert that the funding for the proposed project is precarious and the NCRA must disclose its capacity to fund the project. These comments are not comments on the environmental impacts of the project and thus, NCRA is not required to respond to it. Additionally, CEQA does not require that funding be secured for a project, and CEQA does not require a lead agency to analyze the economic impacts of a project, including any averments that there is inadequate funding.

NEPA Funding

The proposed project has not received federal funding and is therefore not subject to NEPA. If federal funding were to become available for the proposed project, then the appropriate NEPA evaluations would be conducted. It is not mandatory that the CEQA and NEPA environmental reviews be conducted at the same time.

2.1.8 MR 8: NCRA Trail Projects on the NWP Line Rights-of-Way: Designs, Construction, Safety, Operations and Maintenance Guidelines (Adopted May 13, 2009)

The NCRA trail guidelines are intended to provide minimum standards and general requirements for the design, construction, safety, operations and maintenance of Rails-with-Trails on the NWP line right-of-way in a manner that is compatible with the safe operation of NCRA's owned and used railroad right-of-ways and with rail capacity needs. These guidelines seek to balance NCRA's and its contractor operators' legal mandate to provide safe and efficient transportation to the public with the public's desire for trails. These guidelines set out the procedures to be followed by public agencies proposing trails.

The NCRA guidelines provide a process for a public agency to request or sponsor a Rails-with-Trails project. The public agency shall undertake a comprehensive feasibility analysis of the project and appropriate environmental review. When a Rails-with-Trails project is considered by NCRA for joint use in the railroad right-of-way, it shall be considered only in the context of NCRA and its operators' highest priorities of operating safe and efficient current and future rail service in the NWP transportation corridor.

The feasibility analysis shall describe the setting, the relationship to local planning documents, need for the project, land ownership, railroad activity present and future and other information necessary to determine the feasibility. As part of the feasibility study, environmental concerns shall be analyzed pursuant to local, state and federal environmental laws.



The public agency shall also develop and submit a public safety plan that includes insurance and indemnification of NCRA and its operator, engineering, maintenance standards, trespassing and crime prevention, public education, informal signage, incident management and other safety related concerns.

The design of the project shall be consistent with the Caltrans "Highway Design Manual", Chapter 1000, "Bikeway Planning and Design".

Rails-with-Trails shall be designed along the outer edges of the NWP line right-of-way adjacent to the property line, to the extent feasible. Rails-with-Trails projects shall be designed to maximize the setback between the centerline of the track and the edge of the trail. The designs should incorporate best practices from the most current safety studies available, such as U.S. Department of Transportation, 2002, *Rails-with-Trails: Lessons Learned* and the *Rails-with-Trails Report* from the Rails-to-Trails Conservancy (2002). Final setbacks for proposed trails will be reviewed and approved by NCRA on a case-by-case basis based upon the local public agencies engineer's report and safety plan.

NCRA shall have exclusive authority to approve, deny or approve with conditions, any proposals on its right-of-way made by any public agency.

2.1.9 MR 9: FRA Regulations

The operation and maintenance of a railroad is heavily regulated by the Federal Railroad Agency (FRA). These regulations are actively enforced and are in addition to the numerous environmental regulations governing the proposed project. FRA compliance is outside the scope of this DEIR. However, the following provides just a few examples of some of the FRA requirements that the NCRA operator will need to comply with. These are being provided in order to give the reader an understanding of the depth and breadth of the FRA requirements that the rail operator will also be subject to.

Track Inspection and Maintenance

The inspection, maintenance and repair of the RDD track are regulated by the FRA and are subject to requirements such as 49 CFR Parts 213, 214 and FRA's Emergency Order No. 21.

NCRA and their operator will typically conduct the routine track inspections themselves; however, they intend to use qualified railroad contractors to conduct significant maintenance and repairs activities such as replacing ties, ballast and rail as needed.

In accordance with FRA regulations, NCRA and their contract operator will train and certify their employees to conduct track inspections as provided in the operator's Track Safety Standards Program (49 CFR Part 213) and the Roadway Worker Safety Program (49 CFR Part 214). Records of the training and certification will be maintained per FRA requirements.

The track will be inspected once each week and additionally when conditions require. The track inspector will pay particular attention to the geometry of the track including the cross level and alignment, super elevation in curves, spirals, and the condition of ties,



rails, anchors, spikes, joint bars and the nuts/washers/bolts securing them. The track inspector also observes the condition of bridges, culverts, grade crossings, vegetation and the roadway including the embankments (cuts and fills). The track inspector will make a record of the findings on each inspection giving the details and location of any deficiencies observed, and the corrective or follow-up actions taken. The track inspection records will be maintained per FRA requirements.

The following provides a summary of some of the primary inspection and maintenance activities that are required by FRA to safely maintain a railroad for safe operations.

General Types and Frequency of Inspections

- **Cursory Inspections:** A cursory inspection is a walk through inspection of short duration. It is primarily performed to detect any major defects are visibly detectable without employing tactile methods.
- **Periodic Maintenance Inspections:** A periodic maintenance inspection is a regular comprehensive inspection meeting regulatory requirements. It is typically conducted using visual, tactile and auditory skills with sufficient intensity or attention to detail to detect cracks, damage or broken components, signs of wear and tear or other signs of distress.
- **Interim Inspections:** Interim inspections are conducted when periodic inspections identify a substandard condition.
- **Emergency Inspections:** Emergency inspections are conducted after emergency incidents such as derailment, fire, flood, earthquake, or collision impact. Resumption of rail operations cannot occur until the inspection is complete, it has been determined to be safe and authorization has been given.

Pre-start Up Joint Inspection of Facilities

NCRA and their contract operator shall make joint inspections of the infrastructure of RRD rail line prior to startup of freight operations. Freight operations will be initiated in a phased approach; therefore, the southern sections of the line will be inspected prior to the northern sections.

Items of special focus during the joint inspection will include:

- Specific actions required by the Environmental and Novato Consent Decree;
- Track;
- Signals;
- Rail highway grade crossings;
- Embankments;
- Bridges and drainage structures;
- Right-of-way cleanup;
- Brush and vegetation removal;
- Clearances and signs for restricted clearances, including at active industries;



- Walkways and railings;
- Communications system operation;
- Signs;
- Locomotives, including mechanical condition and the equipment carried on board; and
- Freight cars.

Track

The FRA's track safety standards generally focus on the following four main areas:

- Track Structure: Rails, crossties, track switches, tie plates and rail fastening systems.
- Track Geometry: Track gage, alignment, elevation, curvature, and track surface.
- Road Bed: Drainage and vegetation.
- Track Inspections: Frequency and quality of inspections, special instructions and recordkeeping.

Under FRA regulations, each railroad has the primary responsibility to ensure its own track meets or exceeds the federal safety standards. This includes railroad inspectors performing track inspections at specified minimum frequencies based on the class of track, type of track, annual gross tonnage operated over the track and whether it carries passenger trains.

Weekly Track Inspections

Since the NCRA track is either a Class 2 or 3, a minimum of weekly inspections are required by FRA. NCRA and/or their operator will inspect the track by either walking or by riding over the track in a vehicle at such speed that the condition of the track structure can be accurately observed. Inspections shall include, but not be limited to, observations of road bed, drainage, track alignment, gauge, ties, rail joints, rail surface, elevations, rail anchorage and switches.

Annual Track Inspection

A periodic annual track inspection will be conducted to look for internal defects. These inspections will include the use of defect detection equipment.

Emergency Inspections

Special emergency inspections may be necessary if derailments, fires, floods, earthquakes, or other events may affect the stability of the track.

Track Grade, Embankments, Erosion Control

The general condition of the track grade, including embankments, cuts and fills, is included in the weekly track inspection.



2.0 COMMENTS AND RESPONSE ON THE DRAFT EIR

FRA Regulations for Bridge Worker Safety are contained in 49 CFR Part 214 and constitute safety BMPs for employees working on bridges.

The frequency of bridge inspections is dependent on the bridge type and traffic characteristics but typically is as follows:

- Underpass Bridges: Annually with no more than 15 months between inspections. Overhead bridges maintained by an agency of competent jurisdiction such as Caltrans shall undergo a cursory inspection by NCRA and/or their operator, every two years to ascertain any conditions presenting a hazard to rail operations or employees.
- Timber Bridges and Timber Components: Annually with no more than 15 months between inspections. Interim and/or cursory inspections may be required based on site conditions, operating speeds, loads, and traffic volume.
- Open Deck Bridges: Annually with no more than 15 months between inspections. Interim and/or cursory inspections may be required based on site conditions, operating speeds, loads, and traffic volume.
- Movable Bridges: Annually with no more than 15 months between inspections. The specialized electrical and mechanical equipment unique to a movable bridge warrant more frequent inspections based on opening cycles, traffic volume and specific site conditions. FRA regulations (49 CFR 213.235) require that a movable bridge lift rail assemblies or other transition devised be inspected on foot at least monthly. In accordance with 49 CFR 236.387, the movable bridge locking devices shall be tested at least once a year.
- Bridges in Water: All bridges in water, if water depth and foundation type warrant, shall have scour and underwater inspections of the piers and foundation on a 5 to 10 year frequency. More frequent inspections shall be conducted if flood event or flow conditions create scour hazards or concerns.

Tunnels

All tunnels will be inspected annually with no more than 15 months between inspections. Tunnels in areas subject to freezing or heavy seasonal rainfall will be scheduled to be inspected as soon as possible after the cessation of these conditions in order to detect deterioration caused by these climatic conditions.

Locomotives

NCRA nor their operator plan to construct, acquire or operate any facilities or mobile equipment for the servicing, maintenance or repair of locomotives.

To provide the required inspection, servicing, maintenance and repair of its locomotives, for both dependable performance and regulatory compliance, NCRA's operator will contract with one of its connecting railroads to meet these requirements. When due for inspection and maintenance, the locomotive will be moved to the other railroad's maintenance facility.



Locomotive Daily Inspections

FRA, in 49 CFR Part 229.21, requires that each locomotive in use shall be inspected each calendar day. A written report of the inspection shall be made and must contain certain required information. If a non-complying defect is disclosed by the inspection, it must be recorded and repaired before the locomotive is used. Where repairs are made, a notation must be made on the report showing the nature of the repairs that have been made. The report must be filed and must be retained for at least 92 days at the office of the carrier or at the terminal at which the locomotive is cared for. A record must be maintained on each locomotive showing the place, date and time of the previous inspection.

At least one crew member in the train crew will be qualified to perform the locomotive daily inspection. Each locomotive in use will be inspected each calendar day. No tools or parts are required to perform the locomotive daily inspection. The inspection may be performed at any location and does not require that the locomotive be in a maintenance shop for the inspection to be properly performed. The employee performing the inspection does not need to go under the locomotive to perform any part of the daily inspection. No hazardous waste is generated by the daily inspection.

Daily locomotive inspection reports will be provided for use by the employees who perform locomotive inspections.

Locomotive Periodic Inspection and Maintenance

FRA, in 49 CFR Part 229.23, requires that each locomotive in service be inspected periodically to determine if the locomotive is in compliance with the requirements of the regulation. The inspection interval must not exceed 92 days. Each locomotive normally receives four 92-day inspections each year. The results of the locomotive inspection must be recorded on a form prescribed by FRA, signed by the person performing the inspection and certified by that person's supervisor that the work was done. The periodic inspection must be displayed under a transparent cover in the cab of the locomotive. An additional record must be maintained at the railroad's mechanical officer's headquarters location.

The periodic (92-day) inspection is normally performed at a locomotive servicing facility that is equipped with the facilities and equipment required to make the required tests. These mandated inspections are more thorough than the daily inspection and require some disassembly and servicing of the locomotive's components. These inspections also require work under the locomotive where an inspection and servicing pit is used to gain access to the underneath areas of the locomotive. During these inspections, maintenance schedules also require the replacement of oil filters and other tasks that involve fluids.

FRA also requires that each locomotive in service receive an annual test (368-day inspection) and a biennial test (736-day inspection).

For each of the periodic inspections (92-day, 368-day and 736-day), detailed inspection records must be made, signed, certified and kept on file as prescribed by the regulations. Each regulation includes specific items that must be inspected, tested, cleaned and/or repaired.



2.0 COMMENTS AND RESPONSE ON THE DRAFT EIR

Periodic inspections will be contracted out with one of the connecting railroads to perform this work at that railroad's facility.

Unless otherwise provided, when a railroad accepts a locomotive or car in interchange from a connecting railroad, it is responsible for the mechanical condition of that piece of equipment.

The rules for the interchange of rail cars are published in the *Office Manual of the AAR Interchange Rules* and the *Field Manual of Interchange Rules for Railroad Cars* both of which are published by the Association of American Railroads (AAR).

The rules for interchange of intermodal equipment, such as the equipment that would be used on the solid waste train, are governed by the *AAR Intermodal Interchange Rules Including Billing and Repair Procedures*, effective January 1, 2007.

The interchange inspection can be performed by train crew personnel or by a railroad's mechanical department personnel. When locomotives or cars are interchanged to NCRA's operator's trains by connecting carriers, the NCRA's operator's train crew will perform an interchange inspection at the point where the equipment is received in interchange. The crew will perform this inspection while they are making the required air brake test. If one or more locomotives or cars are found to be defective, NCRA's operator will reject the equipment at the point of interchange, set the vehicle out of the train, notify the delivering carrier of the defect and return it to the delivering carrier who is responsible to repair the defective condition.

NCRA's operators will be properly trained on the performance of an interchange inspection in accordance with the AAR Interchange Rules and the AAR Intermodal Interchange Rules.

2.1.10 MR 10: Environmental Consent Decree

NCRA is required to be in compliance with an Environmental Consent Decree that was signed by the North Coast Regional Water Quality Control Board, Department of Toxic Substance Control (DTSC), and Department of Fish and Game (DFG) on July 14, 1999 (*Environmental Consent Decree and Stipulated Judgment, Mendocino County Superior Court Case No. CV80240*). The purpose of the ECD is to prevent environmental impacts associated with the past, current, and future operations of the railroad. The ECD is a mandated non-discretionary action, and not part of the proposed project. While NCRA does not agree that the ECD is subject to CEQA because the ECD is not discretionary, if CEQA were applicable, the statute of limitations to challenge the environmental review or non-review lapsed 180 days after execution of the ECD or on January 10, 2000. Since the ECD was not challenged in the time and manner required by CEQA, there is a conclusive presumption that the ECD is valid as to CEQA.

The ECD applies principally to the ERD and not to the RRD. All sites referred to in the ECD are north of Hopland (the former Willits, Island Mountain, and Eureka facilities), and the eleven sites requiring investigation by the ECD Agencies (discussed below) were also north of Hopland (NCRA chose to add Hopland to the list). It is NCRA's understanding that sites south of Hopland are the responsibility of other Responsible Parties. However, for good practice, NCRA has addressed cleanup and will voluntarily run this project, in the RRD, in conformance with the provisions of the ECD.



2.0 COMMENTS AND RESPONSE ON THE DRAFT EIR

Several comments requested additional information about the ECD, hazardous materials and waste that were present or may still exist along the line, NCRA's progress in removing waste and debris, and status of compliance.

The following is a summary of the scope of the ECD, efforts to maintain compliance, and future plans to remain in compliance once freight service is resumed.

In general, the ECD requires NCRA to perform a variety of actions in four areas:

1. Remove illegally stored or discarded hazardous material, wastes, and other regulated substances from the rail line;
2. Prevent illegal discharges of earthen materials and wastes into the waters of the State;
3. Investigate and remediate potential soil and groundwater contamination at former maintenance facilities; and
4. Prepare and implement work plans for the handling, storage, transportation, and disposal of hazardous materials and waste during the operation of the rail line.

When the rail line resumes operations, NCRA, and its operator by contract, must conform to provisions of the ECD. Activities that fall under these regulations include the following:

- Manage storm water to minimize the threat to surface water resources.
- Prevent spills to soil, groundwater, or surface water resources.
- Inventory and manage petroleum and hazardous materials and waste.
- Characterize and properly recycle or dispose of waste.
- Maintain flange greaser units.
- Establish maintenance control practices and protocols to prevent the threat to surface and groundwater.
- Prepare and implement environmental operations plans and a monitoring and reporting compliance program.

Initial Compliance

Starting in 1999, NCRA initiated measures to address the highest risk issues that were considered threats to human health and the environment. These activities included consolidating containerized waste in secure areas at the former maintenance sites north of Cloverdale. Drums of spent oil and grease were labeled and organized, and Hazardous Materials Business Plans were prepared for several sites, and the sites were inspected annually by the Certified Unified Permitting Agencies (CUPA's) until the materials and waste was removed. Additional activities included preparing a SWPPP for the Willits facility, and cleanup of some soil and materials at Willits under a voluntary cleanup by NCRA's environmental consultant. The risk due to potential release of waste was essentially stabilized until significant funding could be secured.



ECD Assessment

Funding to conduct investigations and cleanup was provided in 2001. With oversight provided by the ECD Agencies, NCRA conducted an environmental assessment of the rail line to assess potential impacts related to solid waste left at some locations from previous operations, and impacts to soil and groundwater from a century of use (*Consent Decree Assessment, July, 2002*). The assessment focused on eleven former maintenance facilities and other sites where repair or fueling operations may have been conducted (the list was provided by the ECD Agencies) as well as the entire rail line from Hopland to Eureka.

The sites are as follows:

1. Eureka
2. Scotia
3. South Fork
4. Fort Seward
5. Nashmead
6. Alderpoint
7. Bell Springs
8. Island Mountain
9. Dos Rios
10. Willits
11. Hopland (added by NCRA)

The assessment was extensive and thorough, including review of regulatory agency files, historical record review, interviews with knowledgeable persons, aerial photograph review, multiple site visits at the eleven sites, and a Hyrail trip to observe conditions along the rail line and assess whether other sites should be added to the target list. The Hopland station was added at this time by NCRA.

The assessment reviewed the conditions along the line, and provided recommendations for compliance with the ECD. The assessment split compliance into two categories:

1. ***Activities that are required independently of whether the rail line resumes operations.*** This includes cleanup of hazardous materials and waste, debris, and rail ties; soils and groundwater investigations where needed; and remediation if required.
2. ***Activities required once the rail line resumes operations.*** This includes preparing required plans such as SWPPP's and Waste Management Plans, handling hazardous materials and waste correctly, and other requirements of the ECD related to operations.

The report was submitted to the ECD Agencies and approved.



ECD Cleanup

In October 2003, Kleinfelder prepared the following documents to address cleanup as per the ECD Assessment recommendations:

- *Waste and Debris Cleanup Plan, Nine Rail Sites, North Coast Railroad Authority, October 31, 2003, and*
- *Contract Documents, Technical Specifications, and Bid Documents, Waste and Debris Cleanup, Nine Rail Sites, North Coast Railroad Authority, October 31, 2003.*

These documents included a detailed inventory of items requiring removal, and specified required regulations and cleanup procedures to remove spent, discarded and off-spec hazardous materials and debris. The hazardous materials and debris identified to be removed included but were not limited to the following:

- Waste oils, off-spec virgin motor oil, antifreeze, and related wastes;
- Oily water;
- Off-spec or damaged batteries;
- Old above-ground storage tanks (ASTs) and empty drums;
- Unusable, discarded or off-spec railroad ties;
- Vehicle tires;
- Miscellaneous identified scrap metal, abandoned automobiles and equipment; and
- Identified old semi- trailers.

Following approval, NCRA safely removed more than 1,000 containers of waste, numerous abandoned cars, equipment and refuse at nine sites (two sites required no cleanup action), dozens of lead acid and nickel cadmium batteries, and many hundreds of discarded rail ties. Prior to cleanup, biologist and archeologist inspected the sites, and cordoned off sensitive areas such as wetlands and middens to prevent disturbance

Following cleanup, a completion report was filed with the ECD Agencies, reviewed and approved (*Documentation of Completion, Waster and Debris Cleanup, North Coast Railroad Authority, May 1, 2005*).

Recent Cleanup in the RRD

The 2003 cleanup avoided areas located within sensitive or potentially sensitive areas (wetlands; habitat for endangered or threatened species; cultural resource sites; etc.). In addition, the cleanup focused on the former maintenance sites, and did not address discarded rail ties and other debris locally scattered along the railroad right-of-way.

NCRA recently (2008 to 2010) repaired the railroad from Lombard to Windsor as a separate project under a Categorical Exemption (notably the track rehabilitation project analyzed in the cumulative impacts section). The project included replacement of 53,000 rail ties, repair of 40 bridges using non-creosoted material when over water



ways, repair and replacement of 52 railroad signals, culvert repair, and ballast placement. During this repair work, approximately 53,000 replaced ties and existing discarded ties were removed following the BMP's that were developed for the Freight Rail Project. The waste ties were hauled by a licensed tie disposal company to permitted disposal and co-generation facilities that receive and cleanly burn the creosoted ties. As a result, the majority of the repaired line from Windsor to Lombard is clear of discarded ties, debris, and other materials requiring removal per the ECD.

Any work that was in the water or adjacent sensitive habitat was completed following detailed conditions of permits from California DFG, US Army Corp of Engineers, US Fish and Wildlife Service, the Water Quality Control Board and where appropriate, the U.S. Coast Guard and BCDC. Where it was determined by resource agencies that endangered species could be present the work was either restricted to appropriate times of the year or done under the oversight of a qualified resource agency approved biologist on the site at all times.

In 2007 NCRA repaired an approximately one mile stretch of former railroad revetment in the Eureka area adjacent the Humboldt Bay. NCRA acquired permits from the Coastal Commission, US Army Corps of Engineers, and California Fish & Game. During this project NCRA had the contractor remove approximately 50 tons of old ties that had been discarded over many years along the railroad embankment as well as 2,534 tons of concrete and steel. The ties were removed according to NCRA's BMP's and discarded at a permitted co-generation plant and cleanly burned. The concrete and steel were removed in accordance with the Agencies approved Waste and Debris Cleanup Plan and recycled at a permitted facility.

Soil and Groundwater Investigations

In 2007, NCRA began investigating the potential for soil and groundwater impacts at the 11 sites. A preliminary site assessment, consisting of a file review and site reconnaissance, was conducted for the purpose of preparing Site Characterization Plans (SCP's) to guide the soil and groundwater investigations. Limited funding required NCRA to begin ranking the sites, and in consultation with the ECD Agencies, it was decided that the former Willits maintenance facility represents the largest potential risk to human health and the environment due to its long history as the only true maintenance facility. NCRA recently submitted to the ECD Agencies a scope of work to prepare a SCP at Willits, and this has been approved. NCRA is awaiting approval from Caltrans, which will allow existing funding to be used for this purpose. NCRA is currently seeking funding for the remaining 10 sites.



2.2 COMMENT LETTERS

This section presents the individual written comments received from individuals, agencies, and organizations. Table 2.2-2 lists the comment letters and assigns a letter number to each.

For each letter, a bar is placed on the right margin that denotes an individual comment as understood by NCRA, and each comment is assigned a number. For example, Comment 3-3 refers to comment letter 3, comment 3.

Section 2.3 provides a corresponding set of responses. For example, comment 3-3 will be addressed by response 3-3. Note that in some cases, a comment number may appear out of order or repeated. For example, comment 3-3 may be followed by 3-1. This occurs where the comment was already addressed by a previous response, and in this example, the reader is referred back to response 3-1. In other cases, a comment may refer to a master comment, or, there can be a mixture of both. In no cases does the response refer the reader to a response on a different comment letter.

The pages that include RDEIR text changes are provided in strikeout / underline mode Section 3 of this FEIR.

The following agencies, organizations, and individuals submitted written comments on the RDEIR:

Table 2.2-2: List of Comment Letters

Letter	Agency, Organization, or Individual
1	Marin Public Works
2	City of Rohnert Park
3	California Public Utilities Commission
4	Hugh Shacklett
5	Petaluma Pedestrian and Bicycle Advisory Committee
6	Town of Windsor
7	County of Sonoma Department of Transportation
8	California Alternatives to Toxics
9	City of Petaluma
10	Mendocino Council of Governments
11	City of Healdsburg
12	City of Willits
13A	Friends of the Eel River (Comments on the DEIR)
13B	Friends of the Eel River (Comments on the RDEIR)
14	Sonoma Marin Area Rail Transit District
15	Humboldt Baykeeper
16A	North Coast Regional Water Quality Control Board (Comments on the DEIR)
16B	North Coast Regional Water Quality Control Board (Comments on the RDEIR)
17	Department of Toxic Substances Control



2.0 COMMENTS AND RESPONSE ON THE DRAFT EIR

Letter	Agency, Organization, or Individual
18A	California Department of Transportation (Comments on the DEIR)
18B	California Department of Transportation (Comments on the RDEIR)
19A	Environmental Protection Information Center (Comments on the DEIR)
19B	Environmental Protection Information Center (Comments on the RDEIR)
20	Marin Conservation League
21	California Department of Justice
22	Walter & Pistole
23	Native American Heritage Commission
24	California State Lands Commission