



To: NCRA Board of Directors

From: Executive Director Stogner

Date: June 10, 2009

RE: **Agenda Item E.1 – Update Russian River Division Draft Environmental Impact Report Schedule**

The comment period for the DEIR expired on May 29, 2009.

At the last Board meeting, it was announced that the DEIR would be recirculated due to changes in the Trail Policy adopted by the Board on May 13, 2009. A decision was also made to include in the re-circulated DEIR an Appendix which would include the Best Management Practices (“BMP’s”).

After consultation with legal counsel and NCRA’s environmental consulting team (Kleinfelder) it was determined that the inclusion of the Appendix was desirable, and that the reference to the BMP’s was a significant enough change to the DEIR to require re-circulation of the entire document. Accordingly, staff recommends the recirculation of the entire DEIR to address these issues and any other issues legal counsel and the environmental team determine should be included in the re-circulated DEIR. In addition, staff recommends that all comments previously submitted, be resubmitted in response to the re-circulated DEIR. Staff will make all those who commented on the March 9 DEIR aware of this requirement.

Some of the issues legal counsel has identified for inclusion in the re-circulated DEIR include:

- The BMP’s will be added to the document as an Appendix;
- An Environmental Compliance Program Plan (ECPP) will also be attached as an Appendix. This Plan will present an overview of the environmental regulatory requirements affecting the operations of NWP Co. freight operations from Willits to Lombard. The primary purpose of the ECPP is to provide NWP Co. management with a tool that will facilitate environmental compliance by providing an organized summary of current requirements and a guide to where regulatory support information and documents are located. The ECPP will address environmental

compliance by media (e.g. hazardous material, waste, air quality, water quality) and in certain situations by regulations (e.g., Prop 65, SARA/EPCRA, CalARP) or the Environmental Consent Decree (Consent Decree and Stipulated Judgment, “ECD”). Environmental regulatory citation and agency contact will be provided in order to assure additional regulatory details and requirements;

- The cumulative impacts portion will be revised to eliminate references to extraneous lease agreement and rights between NCRA and SMART, an issue raised in SMART’s comments to the DEIR;
- The safety section will be revised to reference the final Trail Guidelines adopted as of May 13, 2009. The June 10 Board agenda includes the adoption of the format for the Trail Guidelines adopted on May 13. Accordingly, the Executive Summary, Introduction, Summary of Potential Impacts and Mitigation Summary Tables will be revised. The Safety Section will then be in compliance with the Trail Guidelines adopted by the Board.
- Other details that are impacted by these revisions will be addressed, such as description of the public review process and a summary of the reasons for the recirculation and the changes;
- No hearings will be conducted for the re-circulated DEIR because of the limited nature of the revisions, the fact that two public hearings have already been held with limited participation, and the fact that the vast majority of commenters have opted to submit comments in writing.

The schedule for the re-circulated DEIR will depend upon how long it takes the environmental team to make revisions to the existing document. Once the revisions are made, the Notice of Recirculation will be mailed to all commenters and all public meeting participants, and the notice will be published in the daily newspapers in the four county project area. The notice will make it clear that the recipient has 30 days to submit new comments to the re-circulated DEIR. Commenters will have the option to resubmit their original comments or submit revised comments, but only comments received during the 30 –day comment period applicable to the re-circulated DEIR, will be considered.

Staff will provide the Board with a schedule for Board consideration of the re-circulated DEIR, once all the revisions are complete and the re-circulation process is initiated.