

**NORTH COAST RAILROAD AUTHORITY (NCRA)  
BOARD OF DIRECTORS REGULAR BOARD MEETING**

Wednesday, September 12, 2007 ~ **11:00**

Healdsburg City Council Chambers

401 Grove Street

Sonoma County

**APPROVED MINUTES**

**A. CALL TO ORDER**

Chairman Hemphill called the meeting to order at 11:00 a.m.

**B. ROLL CALL**

**Directors present:** Simonson, Ollivier, Kelley, Leland, Arnold, Ziedrich, Colfax, and Chairman Hemphill

**Directors Absent:** Woolley

**Also Present:** Executive Director Mitch Stogner, Legal Counsel Christopher Neary, Recording Secretary Heather Lindsteadt

**C. AGENDA APPROVAL**

Upon Motion by Director Kelley, seconded by Director Simonson, carried unanimously (8-0, Woolley absent), one emergency item that arose after posting of the agenda was added to Conduct of Business. Addition of Item F.4 – Approval of Bid, Award of Contract, and Issuance of Notice to Proceed to Kernan Construction for repair of the King Salmon Levee.

**D. MATTERS FROM THE BOARD**

Director Arnold reported that her Board Packet did not arrive on time and requested that her Board Packet be FedExed to her so that it is trackable.

**E. CONSENT CALENDAR**

1. **Approval of Financial Statements – August 2007**
2. **Approval of Warrants Issued August 2007**
3. **Approval of Executive Director Expenses August 2007**
4. **Approval of Minutes Regular Board Meeting– August 2007**
5. **Approval of Sonoma County Index Code 787408 Wingo/Camp II Dewatering**
6. **Adoption of Resolution Approving NCRA Final Agency Budget FY 2007-2008**
7. **Adoption of Resolution Approving NCRA Final TCRP Budget FY 2007-2008**
8. **Adoption of Resolution Approving NCRA Final Wingo/Camp II Dewatering Budget**

Upon Motion by Director Ollivier, seconded by Director Kelley, carried unanimously (8-0 Woolley Absent, Ziedrich abstaining from Item E.4) Consent Calendar items E.1 –E.8. were approved.

**F. COMMITTEE REPORTS**

**1. Property Committee – Director Kelley**

Director Kelley updated the Board on the September 12 Property Committee meeting. He reported that the Property Committee received information on 4 items and received reports from Executive Director Stogner, NCRA Engineer Dave Anderson, and Operator John Williams.

**a. Property Committee Recommendation Regarding Agreement with Trione Winery.**

Director Kelley said that the Property Committee is recommending approval of a Lease Agreement with Trione Winery. Executive Director Stogner said that the Lease Agreement will be a 3 year lease for a 10' by 300' strip of railroad property, subject to a \$2,500.00 per year lease fee with an annual CPI increase, additionally, a Lease Agreement for three utility crossings and one private crossing totaling \$1,296.00 per year with an annual CPI increase. He also pointed out that the lessee must cover all engineering and construction management costs related to the lease agreement.

**b. Property Committee Recommendation Regarding City of Blue Lake Encroachment Requests**

Director Kelley reported on a City of Blue Lake request for an encroachment agreement so that the City can maintain storm drains along the NCRA right-of-way through the City of Blue Lake. Director Kelly said that the Property Committee is recommending reissuance of an agreement that was approved in 1999. He said that the Property Committee directed staff to draft a reissuance letter to the City of Blue Lake.

He also said that the Property Committee directed Staff to work with the City of Blue Lake regarding a proposed bike path along the Annie and Mary Rail line. He said that no action was taken on that item.

**c. Property Committee Recommendation Regarding Security Agreement between NWP Co. and NCRA.**

Director Kelley reported that the Property Committee discussed changes to the Security Agreement between NCRA and NWP Co. He said that the Property Committee and full Board approved the Agreement in August, and Caltrans has since recommended a few minor changes, such as an attachment listing the NCRA-owned equipment that will be used as collateral, and changes to item # 6. He said that Staff has incorporated the Caltrans recommended changes into the Security Agreement, and that the Property Committee is recommending approval of the updated Security Agreement.

**d. Property Committee Recommendation Regarding RFP for Property Management Services.**

Director Kelley said that the Property Committee directed Staff to work with the Operator and the Operator Committee and return to the Property Committee with a recommendation that takes into account all interested parties' concerns.

**G. PUBLIC COMMENT**

No Public Comment

## **H. CONDUCT OF BUSINESS**

### **1. Consideration and Possible Action Regarding Approval of Committee Assignments.**

Executive Director Stogner reported that the Committee Assignments have been updated since the last meeting and requested Board approval of the updated Committee Assignments as follows:

Operator Committee: Director Simonson, Director Kelly, Director Colfax and Chairman Hemphill acting as Chair for the Operator Committee;

Property Committee: Director Simonson, Director Ziedrich, Director Leland, and Director Kelley acting as Chair for the Property Committee;

Finance Committee: Director Arnold, Director Ollivier, Director Ziedrich, and Director Colfax acting as Chair for the Finance Committee;

Policies and Procedures Committee: Director Leland, Director Arnold, Chairman Hemphill, and Director Woolley acting as Chair for the Policies and procedures Committee;

Joint Port/Rail Committee: Director Ollivier, Director Woolley acting as Chair for the Joint Port/Rail Committee.

Legal Counsel Neary requested that the Board re-designate the Operator Committee from an Ad Hoc Committee to a Standing Committee which would make it applicable to all rules and regulations under the Brown Act.

Upon Motion by Director Simonson, seconded by Director Kelley the Board approved updated Committee Assignments and re-designation of the Operator Committee, carried unanimously (8-0, Woolley absent).

### **2. Consideration and Possible Action Regarding Approval of Amended Security Agreement between NWP Co. and NCRA.**

Executive Director Stogner reported that after the August 8 approval of the Security Agreement, Caltrans requested a few changes. He said that the changes had been made, and he requested Board approval of the updated Bridge Financing and Security Agreement between NCRA and NWP Co. dated September 12, 2007.

Director Leland referenced Section 3 and asked if NWP Co. could make the sole decision to pay or not to pay an invoice and he also asked if the Operator approves contracts and construction plans for the projects. Executive Director Stogner said that it is a reimbursement program and it is NCRA's duty to make sure that the invoices are complete and have no non-reimbursable charges. The process of reviewing the invoices includes NWP Co.'s review of the invoice before submittal to Caltrans. Executive Director Stogner also said that the Operator is involved in every step of a construction contract from reviewing the plans and specs, to review of the proposals.

Director Leland also asked if there is a cap on the maximum interest rate on loan funds and if NCRA didn't like the interest rate, was there a way to negotiate the interest rate. Executive Director said that the

Operator will send quarterly interest invoices to NCRA and that NCRA will pay interest costs equal to the Operator's interests costs for securing the funding advance.

Director Leland asked if the Operator has inspected the equipment that will be used for collateral, how the equipment was purchased, and if there was any restriction on using it for collateral under the funding agreement. Executive Director Stogner said that all of the equipment is fairly new, having been purchased in 2005. Legal Counsel Neary said that the Railcars are under contract with a Lessee and both the railcars and the equipment is being carefully guarded and monitored. Legal Counsel Neary said that the equipment being used as collateral was purchased with Alternate Project Funds and added that there is no restriction, provided the equipment is used for railroad purposes.

Director Leland referenced section 8.a) of the Security Agreement and asked how the default amount of \$100,000 was decided upon, and also asked for clarification on whether NWP Co. could obtain a deficiency judgment in the event of default. Executive Director Stogner said that Caltrans has had minimal disallowances, and NCRA has been able to provide justification for any disallowances to date. Legal Counsel Neary said that the deficiency provisions common under deeds of trust were not applicable.

Director Leland also asked for clarification on Section 8.b) regarding repayment of Advance Lease Payments made to NCRA by NWP Co and why those payments would revert to a loan in the event of a default, and clarification on the provision in Section 8.a) regarding non operation within 3 years. Legal Counsel Neary said that Section 8.a) and 8.b) are both negotiated business items.

Upon Motion by Director Kelley, seconded by Director Simonson, carried by roll (6-1-1, Arnold abstaining, Woolley absent) the Bridge Financing and Security Agreement dated September 12, 2007 between NCRA and NWP Co. was approved.

### **3. Consideration and Possible Action Regarding RFP for Property Management Services.**

Director Kelley requested that Item H.3 be removed from the agenda and added that Staff received direction from the Property Committee.

### **4. Added Item H.4 – Approval of Bid, Award of Contract, and Issuance of Notice to Proceed to Kernen Construction for repair of the King Salmon Levee.**

NCRA Project Manager, Dave Anderson updated the Board on the responses that were received in relation to the RFP that was issued for the King Salmon Revetment Repairs. Mr. Anderson said that NCRA received 4 bids and the bids were reviewed for completeness and accuracy, and Kernen Construction was the lowest responsible bidder, at a total bid price of \$ 558,928.00. Mr. Anderson recommended Board approval of Award of Contract and Notice to Proceed to Kernen Construction for the King Salmon Revetment Repair Project.

Upon Motion by Director Kelley, seconded by Director Ollivier, carried unanimously (8-0, Woolley absent), the Board Awarded the King Salmon Revetment Repair contract to Kernen Construction, the lowest responsible bidder, and approved issuance of a Notice to Proceed to Kernen Construction.

**I. STAFF REPORTS**

**1. Executive Director – Mitch Stogner**

**A. SB 861 (Wiggins)**

Executive Director Stogner updated the Board on the amendments that were made to SB 861 (Wiggins). He said that the bill has gone to the Governor’s office. Mr. Stogner said that the amendments included \$1.0 million for Quiet Zones, \$1.0 for NCRA to address public health and safety issues along the right-of-way, and \$3.5 million for the Environmental Consent Decree clean-up. He also said that Assemblymember Huffman and Assemblymember Leno asked for an amendment in the bill that would stipulate that funds used for Capital Repairs north of Willits be conditioned on NCRA’s certification of an EIR, Funding Plan, and Business Plan for operations north of Willits.

**2. Project Manager – Dave Anderson**

Mr. Anderson updated the Board on the dewatering project at Schellville. He said that the Department of Fish and Game has provided \$1.5 million for the project. He said that the work will begin on September 18. Director Simonson asked when the work will be completed. Mr. Anderson said that the contractor has 3 months. He added that the dewatering will take 45 days.

Mr. Anderson said that a field review will be conducted on September 13 with potential bidders of the Bridge Repair contract. He also updated the Board on Mass Electric progress on Signal Contract # 1.

**3. Legal Counsel - Chris Neary**

No report

**J. OPERATOR REPORT**

**1. NWP CO. - John H. Williams**

Mr. Williams said that on September 8, the Surface Transportation Board approved the transfer of the Common Carrier Certificate to NWP Co. from NWPY.

*Chairman Hemphill convened into Closed Session at 12:01 p.m.*

**K. CLOSED SESSION**

- 1. Conference with Real Property Negotiator**  
Address: 4105 River Road in Geyserville; Milepost Marker
- 74.0 Agency Negotiators: Mitch Stogner, Dave Anderson**  
Negotiating Party: Trione Vineyards LLC  
Under Negotiation: Lease terms, price, option renewal provisions

*The Board reconvened into open session at 12:35 p.m.*

***L. ANNOUNCEMENT OUT OF CLOSED SESSION***

Chairman Hemphill reported that the Board met with Counsel, received information and gave direction on one item, no action was taken.

***M. ANNOUNCEMENT OF NEXT MEETING***

October 10, 2007 – 10:00 a.m.  
Eureka City Council Chambers  
531 K Street, Room 208  
Humboldt County

***N. ADJOURNMENT***

Chairman Hemphill adjourned the Meeting at 12:37 p.m. to the next regularly scheduled Board meeting in Humboldt County.