

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

Wednesday, August 15, 2007 ~ **11:00**

Ukiah Valley Conference Center

200 South School Street, Ukiah

DRAFT Minutes

A. CALL TO ORDER

Chairman Hemphill called the meeting to order at 11:10 p.m.

B. ROLL CALL

Directors Present: Simonson, Colfax, Ollivier, Woolley (Woolley arrived at 11:18),
Chairman Hemphill

Directors Present by Teleconference: Leland, Arnold, Kelley (Kelley disconnects conference call at 11:55 a.m.)

Directors Absent: Ziedrich

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

C. AGENDA APPROVAL

Agenda stood as presented

D. MATTERS FROM THE BOARD

No Matters

E. CONSENT CALENDAR

1. **Approval of Financial Statements – July 2007**
2. **Approval of Warrants Issued June 2007**
3. **Approval of Warrants Issued July 2007**
4. **Approval of Executive Director Expenses June 2007**
5. **Approval of Executive Director Expenses July 2007**
6. **Approval of Minutes Regular Board Meeting– June 2007**
7. **Approval of Minutes Special Board Meeting – June 2007**
8. **Approval of Minutes Regular Board Meeting - July 2007**
9. **Approval of Minutes Property Committee Meeting – August 2007**
10. **Approval of Sonoma County Index Code - 787200 NCRA-Property Account**
11. **Approval of CTC Quarterly Report for 4th Quarter 06-07**

Upon motion by Director Ollivier, seconded by Director Colfax, Consent Calendar Items E.1 – E.11 were approved (7-0 Woolley, Ziedrich absent).

F. COMMITTEE REPORT

1. Property Committee – Director Simonson

Director Simonson updated the Board on two items that were under consideration at the August 8 Property Committee Meeting in Willits and referenced Agenda items H.2 and H.3. that were under consideration later in the meeting.

G. PUBLIC COMMENT

No public comments

H. CONDUCT OF BUSINESS

1. Consideration and Possible Action Regarding Committee Assignments

Executive Director Stogner explained that with the addition of 2 Marin County Board Directors, one additional Director should be added to each committee. He explained that this required changing the composition of the Standing and Ad Hoc Committees. Director Stogner said that an updated memo has been provided to the Directors in attendance that placed each Director on two NCRA Committees.

Upon Motion by Director Ollivier, seconded by Director Colfax, committee assignments were approved (7-0 Ziedrich, Kelley absent).

2. Consideration and Possible Action Regarding Trione Winery Lease Agreement

Executive Director Stogner said that the Property Committee met on August 8 and discussed the Easement request that NCRA received from Trione Winery. Mr. Stogner described the project. He also said that the Property Committee directed Staff to continue negotiations with Trione Winery, keeping in mind that Trione Winery will be responsible for any additional fees associated with the engineering costs associated with this project.

Director Leland asked if granting Trione Winery a permanent easement would impact future operations.

Project Manger Dave Anderson said that Trione needs a 10' by 300' foot strip of land to extend a retaining wall that is currently on the property. Mr. Anderson said that the Operator conceptually approved the easement and he added that the Operator has concluded that granting the easement would not impact future operations.

Director Leland asked how \$2000 per year was established and asked if there was a Cost of Living (COLA) adjustment written into the agreement.

Chairman Hemphill said that the draft agreement has a 3 year review clause and said that the fee will be adjusted to reflect the COLA annually with a renegotiation of the lease at the end of year 3.

Upon Motion by Director Simonson, seconded by Director Woolley, approved unanimously (7-0, Kelley, Ziedrich absent), Property Committee and Staff were directed to continue negotiations with Trione Winery and report back to the Board for final action.

3. Consideration and Possible Action Regarding Security Agreement between NWP Co. and NCRA.

The Security Agreement was handed out at the Board meeting and faxed to participants who attended by conference call.

Executive Director Stogner updated the Board on CTC allocations to date, and summarized the remaining funds that are available to NCRA for allocation by the CTC. Mr. Stogner said that NWP Co. has been providing the bridge financing for the allocations that the CTC has approved to date. He also said that the invoices that will be submitted for the construction and repair of the line will be much larger and will require substantial funding and therefore a bridge loan continues to be necessary. Mr. Stogner said that in order for NWP Co. to continue to provide the necessary bridge financing to NCRA, the Security Agreement is needed. Mr. Stogner said that the Security Agreement will provide up to \$5 million in advance funds to ensure payment of construction and repair invoices. He also said that the bridge financing is for the TCRP projects and summarized the vendor payment and repayment process. He said that NCRA will be responsible for the interest costs and attorney's fees associated with the bridge loan and also any disallowances.

Mr. Stogner said that if the Board adopts the Security Agreement on August 15, 2007 NCRA would have until August 15, 2010 to repay disallowances, attorney's fees and interest. He said that the security for the bridge loan is 35 railcars and the maintenance of way equipment owned by NCRA. He also outlined the circumstances which would trigger a default, and the timeframe that would be provided to NCRA to cure the default.

A lengthy discussion ensued. Director Arnold said that she had only recently received a copy of the Security Agreement, and that she was not provided sufficient time to review the document.

Upon Motion by Director Simonson, seconded by Director Ollivier, carried by roll call vote (6-2 with Ziedrich absent) the Security agreement between NWP Co and NCRA was approved.

I. STAFF REPORTS

1. Executive Director – Mitch Stogner

Executive Director Stogner updated the Board on the Rohnert Park City Council meeting where the city recently considered the issue of NCRA's NOP on the repairs for the Phase I Russian River Division, Lombard to Windsor. He said Rohnert Park City Council spoke very positively of a partnership between passenger and freight rail and the importance of that partnership.

Doug Bosco, representing the Operator, said that that it was a very positive meeting and he was pleased to see unanimous support for the restoration of freight service from Lombard-Windsor as expressed by the City Council.

Mr. Stogner updated the Board on SB 861 (Wiggins). He said that bills are supposed to be out of Committee by August 31, and that bills on Suspense are not released from Committee until the State Budget is enacted.

Mr. Stogner also reported that NCRA conducted a scoping session on July 31 in Novato regarding the Russian River Division EIR and said that two more Scoping Sessions will be held on August 29 in Santa Rosa, and also on August 31 in Petaluma.

2. Project Manager – Dave Anderson

Mr. Anderson presented the Board with an updated schedule, and updated the Board on the progress of the signal repair contract, status of Mass Electric mobilization, and the estimated time frame for the signal repair work to begin. He also said that he has been in contact with Bob Merrill of the California Coastal Commission regarding the permit for the King Salmon Project. He said the necessary permit will be secured shortly, and an RFP for the work will be issued.

Mr. Anderson updated the Board on the Schelville project. He said that the Department of Fish and Game has provided \$2.2 million for the project. He said that within two weeks the mobilization for dewatering will begin.

Director Simonson asked what the estimated time of completion was for the Schelville project. Mr. Anderson said that it will take a couple of months. Director Simonson said that the repairs to this area are extremely important in terms of a reliable connection to the national rail interchange at Lombard.

Mr. Anderson also reported that the lights at the Black Point Bridge were out for a short period of time due to a problem with a circuit breaker. He also said that the Napa River Bridge lighting required inspection and minor repairs. Mr. Anderson said that it is not uncommon for the lights to go out at these bridges and that he is frequently in contact with the US Coast Guard regarding the navigational lights at the bridges.

Mr. Anderson said that the NCRA Board awarded a contract to Mass Electric and said that SMART has given them an access permit and also an area of land that Mass Electric will use for housing construction materials.

Mr. Anderson said that the next contracts to be awarded are a bridge contract and two roadway repair contracts. He said that the roadway repairs will be separated into two contracts: One contract will cover Lombard to Petaluma, and one contract will cover from Petaluma to Windsor. He said that the design for all 3 projects are scheduled to be complete on August 16 and will be submitted to John Williams for his final review. He said the expectation is that these projects will go out to bid in early September.

Chairman Hemphill said that it is an important milestone to have a Mass Electric mobilizing for the crossing repairs at 28 locations, and thanked Mr. Anderson for his report.

Doug Bosco, on behalf of the Operator, asked how the issue of vandalism and theft will be handled, and asked how HNTB and Mass Electric planned to protect the signal equipment. Mr. Anderson said that the contractor is fully responsible for protection of the signal equipment until the completed project is turned over to NCRA.

3. Legal Counsel - Chris Neary

Legal Counsel, Christopher Neary reported that the NCRA has received an extensive public records request from the City of Novato. He said the agency has 10 days to respond to a public records request, and may request an additional 10 days if the request is voluminous. Mr. Neary said that on August 6 NCRA provided 11 compact disks to the City of Novato's attorney. He said that Staff has also provided additional records, at the Ukiah office, available for inspection by the City of Novato.

Mr. Neary said that he and John Williams met with Carol Harris, Commerce Counsel for UP. He said that car hire issues and interchange issues were discussed and added that it was a very productive meeting. Mr. Neary requested that a meeting be scheduled with Kleinfelder and the UP Environmental Officer to discuss environmental clean-up issues for the property located at the Ukiah Depot and the Willits yard.

Mr. Neary also reported that California Redwood Company, the excursion operator prior to the 1998 closure of the NWP line, has presented NCRA with a demand for payment.

Mr. Neary also reported that NCRA received a check from CBS Outdoor for approximately \$4,000.00. He said the check was returned to CBS along with an explanation that NCRA did not intend to renew the lease.

J. OPERATOR REPORT

NWP CO. - John H. Williams

Doug Bosco provided the Operator Report as John Williams was unavailable. Mr. Bosco reported that NWP Co. recently participated with the North Bay Business Council and helped cover the expense of a comprehensive poll regarding freight rail. Mr. Bosco also reported that the Operator is going to invest in an educational campaign to promote the benefits of freight rail in Sonoma and Northern Marin County.

Director Simonson said that he attended a Willits City Council meeting with John Williams and Peter Koch. He said the City of Willits was considering developing a quarry on city property South of town that could be a potential rail customer.

Director Woolley reported that he has requested the services of the Humboldt County Department of Public Works staff to review the land ownership of the railroad right-of-way between Arcata and Eureka. He said that he wanted to be certain that NCRA owned the underlying property when actions were taken to remove the billboards between Eureka and Arcata.

Director Woolley also updated Staff and the Board on the report that the Humboldt County Association of Governments had received in regards to the proposed trail between Arcata and Eureka. He said that the report outlines the issues that need to be addressed. Director Woolley suggested Staff arrange meetings with interested agencies around the time of the next Humboldt County NCRA Board meeting.

Chairman Hemphill adjourned the meeting to closed session at 12:40 p.m.

K. CLOSED SESSION

- 1. Conference with Legal Counsel - Existing Litigation - One Case***
NWPY vs. NCRA Gov Code Section 54956.9 (a)
- 2. Conference with Legal Counsel - Anticipated Litigation - One Case***
Significant Exposure to Litigation, Gov Code 54956.9(b)(1); (b)(3)(A)

Chairman Hemphill reconvened the meeting into Open Session at 1:49 p.m.

L. ANNOUNCEMENT OUT OF CLOSED SESSION

Legal Counsel reported that the Board met with its Counsel concerning a matter of existing litigation – one case NWPY vs. NCRA and that the Board received information and gave direction. He said the Board also ratified a conduct of arbitration agreement between NCRA and Northwestern Pacific Railway Company for the conduct of arbitration which is now a public document. He reported that the Board also met in conference with Legal Counsel concerning anticipated litigation, significant exposure to litigation, received information from Counsel, and gave direction.

M. ANNOUNCEMENT OF NEXT MEETING

September 12, 2007 – 11:00 a.m.
Healdsburg City Council Chambers
401 Grove Street, Healdsburg
Sonoma County

N. ADJOURNMENT

Chairman Hemphill adjourned the meeting at 1:52 p.m.