

**From:** [Weiss, Mitch](#)  
**To:** [Keck, Steven](#) ; [Anderson, Teri L](#)  
**Cc:** [Remedios, Douglas Sobelman, Timothy](#)  
**Subject:** FW: Comment on Memo Summarizing NCRA Transfer for Dec 2/3 CTC Meeting  
**Date:** Saturday, November 28, 2020 9:50:32 AM

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**From:** Mike Arnold  
**Sent:** Saturday, November 28, 2020 9:15 AM  
**To:** Weiss, Mitch@CATC  
**Subject:** Comment on Memo Summarizing NCRA Transfer for Dec 2/3 CTC Meeting

**EXTERNAL EMAIL.** Links/attachments may not be safe.

Please forward to Steven Keck, if possible and to CTC Commissioners.

My comments on this memo and associated reports are brief

Here is the reference memo in the agenda packet for the Dec 2/3 CTC meetings

**From:** STEVEN KECK, Chief Financial Officer  
**Reference Number:** 4.11, Action Item  
**Prepared By:** Kyle Grading, Chief  
Division of Rail and Mass Transportation  
**Subject: NORTH COAST RAILROAD AUTHORITY, STRATEGIC PLAN UPDATE AND  
TRANSFER OF SOUTHERN SECTION, RAILBANKING OF NORTHERN SECTION  
RESOLUTION G-20-81**

To Whom it May Concern

Nowhere in any of the discussions regarding the transfer of NWP Co freight assets – including the recently issued report by CALSTA, has there been consideration of the state of California’s financial exposure to voter rejection of a tax extension measure in Marin and Sonoma counties.

Based on the trouncing that SMART took on March 3<sup>rd</sup>, the CTC should at least consider a “what if” scenario.

What happens if voters do not pass a tax extension measure prior to March 2029, when the current sales tax expires? The reason that the CTC should consider this question is that passenger rail service may be terminated along with the agency, but freight service may be required by the STB regulations to continue. Will this be a state responsibility? And if freight service is not generating net (positive) revenues, who will be funding the oversight and operation of the freight trains. Abandonment of freight service is a federal matter, not controlled by the state, and for sure the CTC should minimize this potential scenario by “assumption.”

As there has been no report on the costs and benefits to SMART associated with owning the freight assets, no one has any idea of whether this ownership of freight assets will generate net revenues for SMART. No one has assessed what revenue opportunities exist from SMART taking over these assets, nor has there been an assessment of potential loss of revenues from the parking of tanker cars in Schellville to these calculations. SMART may have recently undertaken such a study, but it has not been completed nor reviewed in the public.

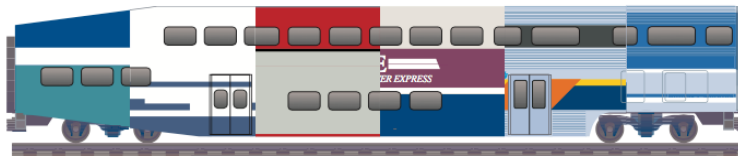
While I agree it is not the state's responsibility to make the assessment of the purchase to SMART, the state needs to recognize that no one has made such an assessment and that this lack of knowledge puts future state revenues at risk.

As someone who participated in the campaign to defeat Measure I, the CTC should consider the implications of just how badly SMART lost that election. A comparison between voter approval of Measure Q in 2008 and Measure I (2020), shows that SMART lost 88,000 yes votes and gained 20,000 no votes in the process. It is an assumption that SMART can pass a tax extension measure in the future. There is significant well funded opposition in the two counties to oppose the extension and whether the agency survives will be determined by the voters.

Given state requirements for a 2/3 vote to extend the sales tax for this rail system, the CTC should at least consider the possibility of SMART's dissolution when considering approving the transfer of freight assets to public ownership.

Thus far, I appear to be the only person that has mentioned that the exposure of the state to this scenario ought to be considered prior to the approval of the transfer.

Mike Arnold, PhD  
Novato



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November 30, 2020

Hilary Norton, Chair  
California Transportation Commission  
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Sacramento, CA 95814  
Email to: [ctc@catc.ca.gov](mailto:ctc@catc.ca.gov)

Re: Item 61, December Agenda

Dear Ms. Norton:

We are a statewide group advocating for rail passengers. For the following reasons, we believe it is premature for the Commission to hear Item 61 this week:

1. The Appendices for the SB 1029 Assessment of the North Coast Rail Authority Report to the Legislature have not been published yet. Because the Report itself was a purely political document, devoid of financial data, the Appendices are likely to contain information crucial for informed decision-making.
2. Railbanking has become a highly complex legal undertaking since the U.S. Supreme Court ruled in 2014 in *Marvin Brandt Revocable Trust v. United States*. The superficial treatment of railbanking in the Draft NCRA Strategic Plan Update (pp. 4-5) in no way provides confidence that action by the Commission will not result in protracted litigation by adjacent property owners seeking to reclaim land that had previously been committed to rail.
3. No financial analysis has been offered so far as to the liability the State might be undertaking by allowing SMART, an organization with unstable funding, to take on common carrier status through petition to the Surface Transportation Board. It could be quite considerable.
4. Our organization opposed SB 1029, as we are convinced that tourist trains would benefit the local economy of Humboldt County. We attempted to negotiate with the bill's sponsor to leave the tracks in place and build a trail alongside. He was, however, committed to seeing the tracks ripped out. It is a truism in our work that once tracks are removed, it is far more difficult--and very expensive--to put them back.
5. The North Coast Rails and Trails Coalition, composed of shippers, other businesses and citizens, is eager to have freight service restored to Willits. The proposal to railbank the ROW in Mendocino County would make that impossible. We are unaware of there having been any public discussion of the impact railbanking would have on Mendocino County.

Please do not hesitate to contact us with any questions at the number below.

Sincerely,

/s/ DAVID SCHONBRUNN

David Schonbrunn,  
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