



**MEMO**

**To:** NCRA Board of Directors  
**From:** Executive Director Stogner  
**Date:** April 13, 2011  
**Subject:** Agenda Item F. 2 – Railbanking Resolution

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In February and March, the Board of Directors spent several hours receiving public comment on the issue of “Railbanking” the Eel River Canyon portion of the Northwestern Pacific (NWP) rail line.

In response to this outpouring of interest in the concept of “Railbanking” the Eel River Canyon portion of the NWP rail line for preservation as a multi-use trail, legal counsel has drafted a memo (attached) and proposed Resolution (attached) for the Board’s consideration and possible action.

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**RESOLUTION**  
**of the**  
**BOARD OF DIRECTORS**  
**of**  
**NORTH COAST RAILROAD AUTHORITY**

IN THE MATTER OF: } Resolution No. 2011-\_\_\_\_  
A Resolution Establishing a Policy for }  
pursuing Railbanking of the Eel River }  
Division. }

WHEREAS, NORTH COAST RAILROAD AUTHORITY ("NCRA") owns that certain segment of railroad between Mile Post Marker 167.3 near Dos Rios Station and Mile Post Marker 238.0 near South Fork hereinafter referred to as the "Eel River Division;"

WHEREAS, NCRA has not been able to conduct operations on the Eel River Division since February 8, 1998 when an El Niño storm rendered operations impossible, and also the Federal Railroad Administration ("FRA") Emergency Order No. 21 was subsequently issued prohibiting freight operations until certain corrective actions are taken;

WHEREAS, the Eel River Division remains under the jurisdiction of the Surface Transportation Board ("STB") and NCRA retains residual liability for common carrier service upon the Eel River Division;

WHEREAS, it is apparent that NCRA lacks the financing, or the prospect of financing, to restore the Eel River Division to service;

WHEREAS, NCRA issued a Request for Proposals for an operator to operate upon the Eel River Division, but no prospective operator, including NWP Co., was willing to commit to conducting freight operations thereon;

WHEREAS, NCRA does not foresee the availability of public financing within the next ten (10) to twenty (20) years to restore the Eel River Division to service;

1           WHEREAS, several citizen groups have advocated for the establishment of an  
2 interim trail upon the Eel River Division (the "Project");

3           WHEREAS, there is authority to establish interim trail use and railbanking under  
4 Section 8 of the National Trails System Act, 16 U.S.C. § 1247(d) and 49 C.F.R. §1152.29  
5 (hereinafter the "Act");

6           WHEREAS, NCRA invites a railbanking proposal to convert the Eel River Division  
7 to interim trail use from any responsible private non-profit or governmental entity with the  
8 financial resources either of its own, or through grants and entitlements, to fund the process;

9           WHEREAS, any railbanking proposal should address adequate protection of private  
10 property adjacent to the right-of-way of the Eel River Division;

11           WHEREAS, NCRA desires to retain the status of Lead Agency for any environmental  
12 review of any Project either under CEQA or NEPA;

13           WHEREAS, any railbanking proposal should address funding NCRA's  
14 administrative expenses in complying with CEQA, NEPA and the regulatory process to  
15 obtain authority for the Project under the Act;

16           WHEREAS, any railbanking proposal should also provide for NCRA's expenses in  
17 compliance with CEQA or NEPA, and NCRA's expenses in retaining special counsel with  
18 experience in "friendly railbanking;"

19           NOW THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE  
20 NORTH COAST RAILROAD AUTHORITY as follows:

- 21           1.     NCRA shall solicit proposals for a responsible agency to develop a plan for making  
22                   application under the Act to place the Eel River Division into railbanking protection  
23                   under the Act.
- 24           2.     The Plan Proposal may be for either straight railbanking for the purpose of protecting  
25                   the corridor, or a railbanking proposal in conjunction with a trail.
- 26           3.     The Plan Proposal should identify the non-profit or governmental entity who will act  
27                   as Plan Sponsor during NCRA's application process.

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4. In the event the Plan Proposal is for an interim trail in conjunction with the railbanking proposal the Plan Proposal should: (a) indicate the proposer's willingness and financial ability to fund NCRA's expenses in environmental compliance and regulatory application; (b) provide for the protection of private property adjacent to the NWP Line; (c) identify the entity which would assume operational and financial responsibility arising out of interim trail use and any ultimate restoration to freight purposes as provided by the Act; and (d) comply with the pertinent provisions of the NCRA Trails Policy.

Introduced and adopted this 13th day of April, 2011 at a regular meeting of the Board of Directors of North Coast Railroad Authority by the following vote:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
HAL WAGENET  
Chairman of the Board

ATTEST:

\_\_\_\_\_  
MITCH STOGNER, Secretary