

State of California
Business, Transportation and Housing Agency
Department of Transportation

PROGRAM AMENDMENTS
Traffic Congestion Relief Applications
Action Item

Prepared By:
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CTC Meeting: November 7-8, 2001

Agenda Item: 2.1c.(3)

Original Signed By _____
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Chief Financial Officer
November 1, 2001

TRAFFIC CONGESTION RELIEF (TCR) PROGRAM
APPLICATION AMENDMENT APPROVALS

RESOLUTION TAA-01-08
Amending Resolution TA-00-01

At the November 7-8, 2001 California Transportation Commission (Commission) meeting, the Commission will be asked to consider the following Traffic Congestion Relief Program application amendment for the North Coast Railroad Authority. The Department recommends the Commission approve the requested action. A fact sheet describing the project is attached.

- Project #32.6 – North Coast Railroad; Sub-paragraph (f) debt reduction. Amend application to update project schedule and modify creditor list. No other changes to TCR application approval of \$10,000,000 under Resolution TA-00-01. North Coast Railroad Authority is requesting this amendment.

TCR Program – Application Amendment Approval Request for Project # 32.6

November 7-8, 2001
Agenda Item 2.1c.(3)

Regional North Coast Railroad; Sub-paragraph (f) debt reduction.

(\$ X 1,000)

<i>Estimated Project Cost:</i>	\$10,000	<i>TCRP Funds covered by the application:</i>	\$10,000
<i>Total TCRP Funds Available:</i>	\$10,000	<i>Phases(s) covered in application:</i>	All
<i>Lead Agency:</i>	North Coast Railroad Authority (NCRA)	<i>Implementing Agency:</i>	NCRA

TCRP Allocation requested concurrently with application: **\$10,000** *for Phases(s):* All
Advance requested: \$10,000

Amendment Summary: This Amendment updates the overall project schedule and modifies the creditor list originally approved in September 2000, and subsequently modified in January 2001, to eliminate creditors that did not respond, adjust interest payments based on a negotiated method, and to include creditors that were not identified at the time of the original application.

A negotiated amount of \$188,167.51 (of a \$235,045.23 judgment) remains to be paid to a company (FCM Rail, Inc.) that was not included on the original list of creditors due to legal issues regarding jurisdiction of the judgment. The legal issues regarding the jurisdiction of the judgment has been resolved, and it has been determined that this judgment must be paid. The funds available for this judgment are from creditors on the original creditor list that did not respond to either of the three contact notices sent to the companies.

Project Summary

The overall project provides funds to NCRA for payment to creditors for principal and interest owed.

Cost and Schedule (\$ X 1,000)

Phase	Scope	Start	End	Cost
4	Pay Creditors			\$10,000
Total:				\$10,000

Funding Plan (\$ X 1,000)

Source	Type	Phase 1	Phase 2	Phase 3	Phase 4	Total
TCRP	State	Committed			\$10,000	\$10,000
		Proposed				
	Totals:	Committed			\$10,000	\$10,000
		Proposed				
		Totals:			\$10,000	\$10,000

Discussion/Issues

Recommend Approval. The \$10,000,000 in TCRP funds does not fully pay-off the outstanding debt owed by NCRA, as originally thought. There are still businesses that have negotiated to hold off on outstanding interest owed payments until additional funds become available. There are also additional notes and loans that have not been paid and will be due in the years to come (PALCO note due November 2006). The Union Pacific obligation left unpaid is the result of an invoice received for the car hire obligation. This obligation continues to grow due to the cars trapped on the line and cannot be returned to UP until the line is operational. According to NCRA documents a total of \$1,279,295 in debt remains to be paid. NCRA has indicated that they intend to pay the remaining debt by using funds generated by property revenues and future freight and passenger services fees. NCRA has been unable to submit a timetable on the growth of the outstanding debt, since it is not yet known when the line will be in full operational service.

Recommended Resolution Language: The \$188,167.51 made available from the unclaimed debt and the negotiated debt amounts shall be used to pay the FCM Rail, Inc. judgment; and all remaining unpaid debt shall be paid by NCRA using funds generated from property revenues and future freight and passenger services.

Recommended Resolution Language: Starting in January 2002, NCRA shall update the Commission on a quarterly basis to identify the sources, amounts and growth rate of all outstanding debt and the projected point in time when NCRA will generate enough revenues to pay down the debt.

Recommended Resolution Language: NCRA shall retain an independent auditor to conduct a final accounting of all payments upon completion of all payments or liquidation of all TCRP funds; and that the audit report will include identifying payments made to each creditor and identifying remaining unpaid creditors, including principal and interest payment outstanding, and descriptions of work or services rendered by the creditor.

CALIFORNIA TRANSPORTATION COMMISSION
Approval of Traffic Congestion Relief Program
Project Application Amendment

RESOLUTION TAA-01-08
Amending Resolution TA-00-01

- 1.1 WHEREAS the Traffic Congestion Relief Act of 2000 (herein after referred to as “statute”), which was established by Chapters 91 (AB 2928) and 656 (SB 1662) of the Statutes of 2000, establishes the Traffic Congestion Relief Program, providing \$5.39 billion for projects throughout the State of California to reduce traffic congestion, provide for safe and efficient movement of goods, and provide system connectivity; and
- 1.2 WHEREAS in accordance with Government Code Section 14556.11 the California Transportation Commission (Commission) has adopted guidelines, in consultation with the Department of Transportation (Department) and regional agencies, to implement the Traffic Congestion Relief Program (TCRP); and
- 1.3 WHEREAS the statute and guidelines require applicants to specify full and complete project applications, including scope, cost and schedule, financial plans and funding sources; and
- 1.4 WHEREAS on September 28, 2000, the Commission passed Resolution TA-00-01 approving 31 project applications totaling \$359,100,000, including \$10,000,000 for Project #32.6 – Subparagraph (f) debt reduction, to the North Coast Railroad Authority (NCRA); and
- 1.5 WHEREAS the project approval for Project #32.6 included a list of the outstanding debts known to NCRA, as a result of loans, notes, judgments, and trade accounts; and
- 1.6 WHEREAS not all outstanding debts had been identified on the September 2000 list of debts and was subsequently updated in January 2001, to reflect a more accurate account of the outstanding debt to be paid with the \$10,000,000 in TCR funds; and
- 1.7 WHEREAS three trade creditors have not responded to NCRA’s attempts in January 2001, March 2001, and April 2001, to contact and pay the creditors, and two other expenses identified on the January 2001 list are expected to be eliminated through negotiations or were deemed invalid; and
- 1.8 WHEREAS several of the contractor and trade account creditors have agreed to forgo interest payments until such time as additional funding is available from property revenues and future freight and passenger services; and
- 1.9 WHEREAS the FCM Rail, Inc judgment from 1999 was originally considered invalid for jurisdictional reasons because the judgment was not registered in California and was not included in the January 2001 creditor list; and

- 1.10 WHEREAS FCM Rail, Inc was successful in registering the judgment in California and has negotiated with NCRA for payment of that judgment for an amount of \$188,167.51, of the original amount of \$235,045.23, made available from the deferred interest payments and unclaimed debts discussed in Sections 1.7 and 1.8 above; and
- 1.11 WHEREAS the January 2001 list of creditors indicated debt in the amount of \$531,809 remained after the \$10,000,000 in TCR funds were utilized; and
- 1.12 WHEREAS since the January 2001 list, new creditors have been identified and existing debt, such as the UP car lease, continues to grow bringing the September 2001 remaining debt to \$1,279,295, after all known creditors on the list have been paid; and
- 1.13 WHEREAS the NCRA is unable to determine the additional debt that will accumulate as a result of the unpaid debt of \$1,279,295 that remains, but has indicated that all remaining debt will be addressed by funds generated by property revenues and future freight and passenger services.
- 2.1 NOW THEREFORE BE IT RESOLVED the Commission does hereby approve the following TCRP project application amendment for the North Coast Railroad Authority (NCRA) as submitted, with subsequent clarifications and revisions:
 - Project #32.6 – North Coast Railroad; Sub-paragraph (f) debt reduction. Amend application to update project schedule and modify creditor list. No other changes to TCR application approval of \$10,000,000 under Resolution TA-00-01. North Coast Railroad Authority is requesting this amendment.
- 2.2 BE IT FURTHER RESOLVED that the \$188,167.51 made available from the unclaimed debt and the negotiated debt amounts shall be used to pay the FCM Rail, Inc. judgment; and
- 2.3 BE IT FURTHER RESOLVED that all remaining unpaid debt shall be paid by NCRA using funds generated from property revenues and future freight and passenger services; and
- 2.4 BE IT FURTHER RESOLVED that starting in January 2002, NCRA shall update the Commission on a quarterly basis to identify the sources, amounts and growth rate of all outstanding debt and the projected point in time when NCRA will generate enough revenues to pay down the debt; and
- 2.5 BE IT FURTHER RESOLVED that NCRA shall retain an independent auditor to conduct a final accounting of all payments upon completion of all payments or liquidation of all TCRP funds; and
- 2.6 BE IT FURTHER RESOLVED that the audit report will include identifying payments made to each creditor and identifying remaining unpaid creditors, including principal and interest payment outstanding, and descriptions of work or services rendered by the creditor; and
- 2.7 BE IT FURTHER RESOLVED that CTC Resolution TA-00-01 is hereby amended.