

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

POLICY MATTERS
Establishment of a Trust/Escrow Account
Within the State Treasury System for the
Repayment of NCRA's Q Loan
Resolution G-99-14
CTC Meeting: May 4-5, 1999

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Agenda Item: 4.9



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Finance
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**ESTABLISHMENT OF A TRUST/ESCROW ACCOUNT
WITHIN THE STATE TREASURY SYSTEM FOR THE
REPAYMENT OF NCRA'S Q FUND LOAN**

RESOLUTION G-99-14

RECOMMENDATION:

The CTC is requested to authorize the establishment of a trust/escrow account within the State Treasury System that will be used as a repository of funds for the repayment of the North Coast Railroad Authority's Q loan.

The approval of this Resolution is contingent upon:

- CTC's approval of Resolution MFP-98-30 (Agenda Item 2.6g), which would allocate \$463,550 of PTA funds, programmed in the FYs 97/98 (\$376,930) and 96/97 (\$86,620) Transit Capital Improvement (TCI) program, to the Department of Transportation on the behalf of NCRA for deposit into a yet to be established trust/escrow account.
- A Memorandum of Understanding between the CTC and NCRA which governs fund activity (transfers to and from), future funding, and deficiency resolution must be in place.
- The Business, Transportation, and Housing Agency and the Department of Finance must grant approval on the establishment of the trust/escrow account.

BACKGROUND:

In 1996 the North Coast Railroad Authority (NCRA) completed the acquisition of the Northwestern Pacific Railroad (NWP) line with funding from federal, state and local sources. A total of \$36.8 Million in federal funds was utilized for the NWP acquisition with \$12 Million in the form of a loan coming from the Federal Highway Right of Way Revolving Fund ("Q Funds") administered by the Federal Highway Administration (FHWA).

The \$12 Million, 20 year, no-interest Q Fund loan was guaranteed by NCRA. The completion of a Prequalification audit of NCRA's accounting system by Caltrans' Audits and Investigations revealed that NCRA has not complied with the Q Fund Trust Agreement. As of December 17, 1997 the Q Fund balance amounted to \$620 when the balance should total approximately \$697,500 by June 1998. Subsequent audits reveal that NCRA has closed the aforementioned account. According to the NCRA Q Fund Trust Schedule of Contributions the required minimum balance as of June 1999 should be \$1,010,225.

In return for guaranteeing the Q Fund loan, NCRA could use \$8.6 Million in ISTEA demonstration funds for the reconstruction of the Northwestern Pacific corridor. Due to the concerns expressed by the Commission, NCRA has proposed a Q Fund loan repayment plan that includes the establishment of an account within the State Treasury System to better ensure that funds for repaying the Q Fund loan are kept for that purpose.

POLICY RESOLUTION

Resolved That:

The Commission hereby authorizes the Department of Transportation, on behalf of the CTC, and the State Treasures' Office to establish a trust/escrow account in the Pooled Money Investment Account within the State Treasury System as a repository of funds for the repayment of the North Coast Railroad Authority's Q loan. It is further resolved that all fund activity be conducted by the Department of Transportation on behalf of the CTC in accordance with the Memorandum of Understanding between the CTC and NCRA. All disbursements from the yet to be established trust/escrow account will be exclusively limited to the repayment of NCRA's Q fund loan and the maintenance fees associated with the trust/escrow account are to be based solely on account activity.

The Commission also voted to add a provision to the MOU that the affected counties, through their Regional Improvement Programs guarantee coverage of any NCRA shortfalls to the Q Fund Trust Account.