

**TO:** Regional Transportation Commission  
**FROM:** George Dondero, Executive Director  
**RE:** Options for use of the rail corridor

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## **RECOMMENDATION**

Staff recommends that the Regional Transportation Commission (RTC) review the information provided and discuss possible options for future use of the rail corridor.

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## **BACKGROUND**

In 2012, after more than a decade of negotiations, due diligence and public input, the RTC became owner on behalf of the community of the 32-mile branch rail line, which was previously owned and operated by Union Pacific Railroad. The transaction included transfer of the responsibility to operate freight service and serve shippers on the line to Iowa Pacific Holdings, locally operating as the Santa Cruz and Monterey Bay Railway (SC&MBRy). Those rights and responsibilities are through a "freight easement" and designation as "common carrier" by the federal Surface Transportation Board. Railroad operators are also regulated by the Federal Railroad Administration. In addition, SC&MBRy signed a ten year Administration Coordination and License Agreement (ACL) with the RTC. That agreement addresses certain shared responsibilities, operation of passenger excursion trains and other issues of common concern. The ACL does not supersede the operator's rights and responsibilities as common carrier and holder of a freight easement.

At the September 1, 2016 RTC meeting, the Commission directed staff to provide an outline of three possible uses of the Santa Cruz Branch Line rail corridor: rail with trail, trail only, and bus rapid transit (BRT) with trail. The outline consists of three components:

1. Legal considerations for each option, including whether a full Environmental Impact Report (EIR) would be required.
2. A cost analysis for each option, based on current studies; and
3. A general timeline to implement each project.

## **DISCUSSION**

### **Rail with Trail**

The Rail with Trail (or "rail trail" as commonly referenced) approach is the policy currently being pursued by the RTC consistent with its decision to use Proposition 116 funds to purchase the rail line for preservation of existing freight and recreational rail service, expansion of recreational rail service, exploration of future passenger rail service and construction of a bicycle and pedestrian path. Significant

progress has been made, with funding for design, environmental clearance and construction of nine miles of the 32-mile trail now secured. Final design is in progress and construction is scheduled to begin in 2017/18. Funding has also been awarded for design and environmental review of an additional 2.1 miles of a current project on the north coast and funding is recommended for award for design and environmental review of an another 2.2 mile segment in mid-county.

Planning work for the Monterey Bay Sanctuary Scenic Trail Network (MBSST) was completed over a two and half year period entailing extensive outreach and engagement with stakeholders and community groups. The MBSST Network defines the 32-mile rail trail as the system spine. The resulting Master Plan includes cost estimates to construct each trail segment, including project level environmental clearance, permits, engineering design, and construction. The Master Plan was completed at a cost of about \$800,000 and was adopted by the RTC on November 7, 2013 with a revision adopted February 6, 2014. All local jurisdictions through which the trail will traverse have also adopted the Master Plan.

In addition to the Master Plan, a program-level Environmental Impact Report (EIR) was prepared. In anticipation of completion of the Master Plan and EIR, the RTC considered adding a trail-only option in the EIR; however, the RTC unanimously decided to not include a trail-only option at its February, 2013 meeting. The Master Plan and EIR, as adopted, direct future planning to include the assumption that the railroad tracks remain in place for use by freight, excursion and potentially in the future to serve the community with regular rail transit. Thus, the vision encapsulated in the Master Plan and EIR is a rail with trail scenario and represents current RTC policy.

Time: Current projects are anticipated for construction in 2017/18. Additional projects are contingent on funding. Using Measure D funds to leverage state, federal and private grants, a 10-year horizon is reasonable.

Estimated cost to complete MBSST: \$127MM less \$19MM already secured = \$108MM. Of the \$19MM secured, \$4.5MM is from private donations primarily via the Land Trust of Santa Cruz County. An additional \$3.2MM for a mid-county rail trail project will be considered by the California Transportation Commission (CTC) on December 8<sup>th</sup>, 2016 with a \$1.5MM match committed by the Land Trust.

Legal considerations for trail: MBSST Master Plan and associated EIR completed, project level environmental analysis required as trail segments are funded.

### Rail Transit

In June 2015, the RTC completed a high altitude feasibility study to examine potential for the rail line to provide regular scheduled rail transit service. Several scenarios were examined based on different assumptions. The consultant provided cost estimates for each, and a timeline that would apply for development of any scenario. The RTC did not choose a preferred scenario, although the commission did agree that any future plans to provide rail service would include service to Watsonville. Although the study answered some preliminary questions, it raised

many more that need to be considered before the RTC and the community decide if rail transit service should be pursued and if so what characteristics and technologies are most suited to the community. To that end, the Expenditure Plan in Measure D has a Rail Corridor category which includes 1) protecting and maintaining the right-of-way including existing infrastructure of the rail line and 2) performing in-depth environmental and economic analysis of future transit and other transportation options on the right-of-way through a transparent public process. Funding from Measure D will not be used to begin new rail transit service nor would it be used to make improvements to the Pajaro Rail Station. The super majority of voters passed Measure D, making funding to conduct the in-depth environmental and economic analysis now available.

The time to complete the analysis, engineering, construction and procurement of vehicles and initiate rail transit service is estimated in the Feasibility Study to be approximately 11.5 years, or just over 8 years from the completion of preliminary design and environmental studies (Attachment 1). This time frame aligns with experience in other locations for a similar project of similar size. Note that once the preliminary design and environmental studies are completed, funding for further work would have to be secured, and could require additional time. Based upon recent experience with Measure D, a reasonable assumption would be 2-4 years from concept to approval by voters.

Time: 11.5 to 15 years or more depending

Estimated cost: both capital and operating costs vary by scenario with capital costs at \$77MM to \$176MM and operating and maintenance \$5.8MM to \$16MM per year

Legal Considerations: Freight and passenger rail service may legally operate on the same track as long as adequate design features and operating arrangements are established. If freight service continues only on the first 4 miles of the rail line, as is currently the case, such features and arrangements will only impact that portion of the line. Environmental review will be required for passenger rail service.

### **Trail-Only**

A trail-only option has been proposed on the presumption that it would be a faster and less expensive means of completing the trail, albeit at the cost of forfeiting any other uses including the future option to add rail transit. The trail-only option would provide for dual use for bicyclists and pedestrians rather than multi-use of the corridor, including transit and freight service. Proponents of this approach point to the cost reduction of not having to build bridges for the trail if the railroad structures could be utilized. However, this approach adds a number of additional steps, some of which introduce considerable unknowns in terms of time and cost.

In this scenario, the RTC would make the decision to not develop rail transit service, abandon freight service on most or all of the line, remove the tracks, and dedicate resources to building a trail. That decision could be made once the full environmental and economic studies and public process are completed. Proponents

of the trail only concept have suggested that no further public process or evaluation needs to occur and that the Commission could make that decision now. Such a decision would most likely be challenged for various reasons: 1) funding and the commitment to complete the process in the Expenditure Plan of the Measure D ordinance approved by a supermajority (over 2/3) of Santa Cruz County voters (Attachment 2); 2) rail service is a condition of the Proposition 116 funding used to purchase the line and was the intent of a majority of both CA and Santa Cruz County voters to expand passenger rail service in California; 3) concerns around funding commitments, especially private ones, for current trail projects which are based on a rail-with-trail scenario (see Attachment 3); and 4) the rail operator is the owner of a freight rail easement on the entire length of the rail line, is the designated common carrier for this rail line, which only the Surface Transportation Board has the authority to change and has operating rights for both freight and recreational rail service under a ten year agreement with six years remaining. Regardless of the timing of the decision, further work would be required before the Commission could commence with building a trail and removing the tracks. Some tasks could occur concurrently while others will need to occur sequentially. At a minimum, the following would need to be undertaken:

1. Public Process – The community is clearly interested and not in unanimous agreement about use of the corridor. Long term mobility needs for the county need to be considered.
2. Re-negotiate the Administration, Coordination and Licensing (ACL) Agreement with Iowa Pacific Holdings (IPH). The current agreement is up for renewal in 2022. Staff contacted management at Iowa Pacific to inquire about their potential response to terminating the ACL prior to 2022 and they indicated that they were not interested. If the RTC is successful in convincing IPH to terminate the contract prior to its termination date, IPH may request compensation for to buy them out. Estimated time to complete: 2 6 years. Estimated cost: unknown cost for legal counsel, staff time and any potential buy out compensation.
3. Engage in discussions with the California Transportation Commission (CTC) to return at a minimum \$11 million in Proposition 116 funds that were awarded to the RTC for purchase of the line. However, the CTC may ask for the full \$14.2 MM used to purchase the rail line or \$19 MM, which includes funds used to improve bridges for rail operations. It is possible that the CTC will not require that the funds be returned and have the state take over the rail line. In past communications, the RTC asked what would happen if the RTC did not implement passenger rail service. The response was that the CTC and/or Caltrans would step in and help the RTC make a fresh attempt to implement rail service. This raises the question, “would the RTC prefer to attempt to develop rail service, or have Caltrans lead that effort?” If one assumes that the CTC will agree to accept repayment, the cost would include any escalation in appraised value of the property since the purchase was

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completed in 2012. Other costs would include new appraisal of the property, legal counsel, staff time, and a negotiated agreement on the escalated value of property since the most recent appraisals were completed. Estimated time: 1.5 – 3 years. Estimated cost: up to \$1MM in consultant, legal and staff costs.

4. Secure the repayment funding from a source yet to be determined. Estimated time: unknown. Estimated cost: \$11MM to \$19MM + increase in market value of ROW since purchase.
5. Apply for abandonment of freight service on the line. This falls under the jurisdiction of the federal Surface Transportation Board (STB). Abandonment proceedings could be complicated by a) resistance or opposition of existing and potential shippers on the line, b) lack of cooperation by Iowa Pacific, and c) resistance by the STB to transform rail corridors to non-rail uses or to do so with conditions to compensate those affected including shippers and the operator and to mitigate for impacts of shifting rail shipping to roadway shipping. RTC experience with the STB during procurement of the line suggests that abandonment may be neither quick nor inexpensive. It took the STB over a year to deliver the decision on RTC's purchase of the line, which was unopposed and "simple." In the end, their decision was that they had no objection to the purchase. The delay was caused by the fact that other cases were in line ahead of ours. In addition, hourly rates are extremely high for attorneys with railroad experience who are qualified to practice before the STB. Estimated time: 2 – 3 years. Estimated cost: \$250,000 - \$500,000 in legal and staff costs; costs of potential conditions unknown.
6. Environmental permitting – assuming the above steps would not be challenged and could be completed successfully, there is a high likelihood that California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) clearance would have to be filed to remove the track and remediate the rail corridor for any hazardous material as well as air quality impacts due to the construction work. Pulling up the tracks entails disposal of thousands of railroad ties that were treated with creosote, considered a hazardous material in California, and disturbance of the soil. RTC staff is currently investigating the cost of tie disposal which will likely entail shipping to a specialized disposal facility in another state. A permit from the County Environmental Health Services would also likely be required. Estimated time: 1.5 to 2.5 years. Estimated cost: \$100,000 for consultant fees, staff time and permit fees not including disposal fees.
7. Hazardous material assessment and potential mitigation. A change in use of the rail corridor will require an assessment about whether there are harmful levels of hazardous material in the vicinity of the tracks. The County Environmental Health Services would oversee the hazardous material assessment and any associated mitigation. Estimated time: Completed as

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segments are funded. Estimated cost: Unknown depending on level of hazardous materials if any.

8. Removal of ties and rails. A Request for Proposals (RFP) would need to be issued and a qualified contractor engaged to remove the rails and ties. Estimated time: 6 – 12 months. Estimated cost: unknown
9. Survey property boundaries to verify ownership and deal with encroachments. This step is essential regardless of when the trail is built and whether the rail stays in place. Property records on many parcels in the corridor lack clarity and specifics that must be researched through titles and any surveys that were recorded. New surveys must be done and encroachments will need to be addressed through a variety of efforts which could include negotiation and legal action. Estimated time: 2 years. Estimated cost: \$5.4 MM.
10. Complete project-level environmental clearance on each trail segment project. While this applies whether the rail stays in place or not, current projects are able to tier off the currently certified EIR whereas this cost saving option will not be possible under a trail-only scenario. Estimated time: varies, depending on how many trail segments are being prepared for construction at one time. Estimated cost: unknown given that the current certified EIR is not representative of trail-only project
11. Funding – a percentage of Measure D funds is dedicated to construct and maintain the trail assuming that the trail is built next to the rail line. Any additional funds needed specific to a trail-only option, such as removal of tracks, may need to be secured through grants and/or private donations. Estimated time: unknown. Estimated cost: depends upon total cost of the trail-only option and the amount of funds available from Measure D.
12. Legal challenges – if the RTC does not make a good faith effort to develop rail transit in the county and develops the corridor only as a trail, there could be legal challenges from the state as well as privately funded groups of citizens because the RTC would not be meeting existing commitments to provide transportation options to reduce greenhouse gas emissions. Policies supporting emission reductions are spelled out in the 2014 Regional Transportation Plan. The California Air Resources Board (CARB) is expected to release new, more stringent targets for emission reductions to each region in 2017. Estimated time: 2 – 5 years. Estimated cost: \$500,000+
13. Other potential legal challenges to adopting a trail-only policy may come from the California Coastal Commission; other regulatory agencies and environmental organizations; and communities concerned with sustainability, economic justice and equity in providing transportation options to all residents of the county. Estimated time: 1- 3 years. Estimated cost: unknown.

Overall time: 8 years (not including construction) to unknown

Overall estimated cost: \$32MM (not including environmental, design and construction) to unknown

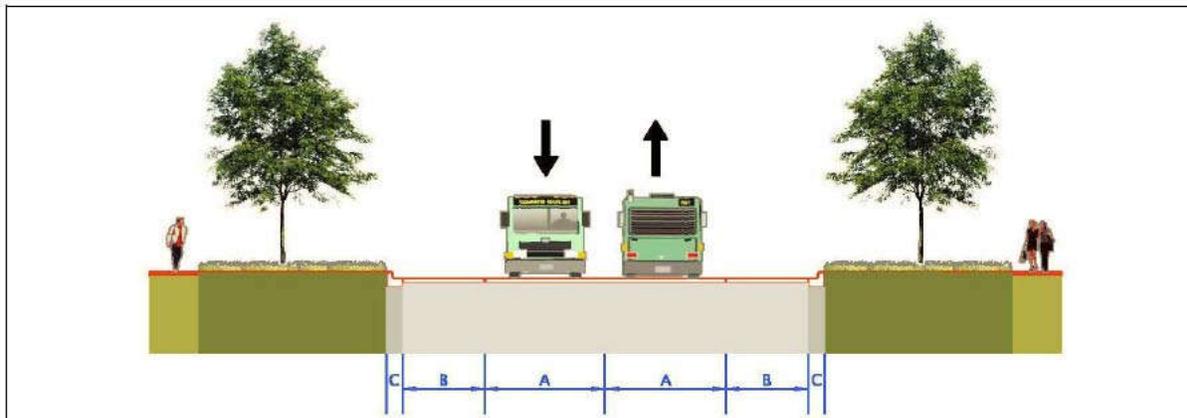
Overall legal considerations: dismantle contractual and voter approved obligations, various environmental reviews, Surface Transportation Board process, hazardous materials requirements, and legal challenges possibly from various fronts.

**Bus Rapid Transit (BRT)**

Bus rapid transit is a type of bus service that travels faster and more reliably than regular fixed route bus service by providing level boarding, triggering traffic signals, providing pre-board fare payment and running some or all of the time in dedicated lanes separated from traffic, among other typical characteristics. The RTC has not undertaken any studies on BRT in the County, although it was identified as one option on a portion of the rail line in the 1998 Major Transportation Investment Study and the Santa Cruz Metro considered BRT between downtown Santa Cruz and UCSC. BRT has been implemented in many areas around the world.

Physical Constraints

A typical BRT busway consists of two paved lanes, a separator/barrier and gutter, and outside shoulders. A typical section is illustrated here:



Designation	Description	Dimension (feet)		Notes
		Preferred	Constrained	
A	BRT/bus lane	12	11	
B	Shoulder	4	2	Wider shoulders suggested for snow storage.
C	Barrier/curb and gutter	2	2	

Source: *Designing Bus Rapid Transit Running Ways*, American Public Transportation Association, October, 2010, APTA-BTS-BRT-RP-003-10

Note that the full right-of-way requirements for the cross section above are 36 feet for the preferred, and 30 feet for the constrained example. For the busway to run

next to a multi-use trail, then the optimum design would include a separator/barrier to prevent buses that leave the busway from causing collisions on the trail. A three foot allowance for this separator will be assumed, yielding a 39 foot or 33 foot width needed for the busway running next to a trail. Most of the rail corridor right-of-way (ROW) would accommodate either the 30-foot or 36-foot busway exclusively. However, constructing the busway would conflict in many locations with the 12 - 16 foot average multi-use trail as the Monterey Bay Sanctuary Scenic Trail is currently envisioned and in development. A one-way busway with pullouts could be considered but additional analysis would be needed to determine feasibility, possible design options, current and future demand, signaling requirements and costs.

Approximately 8 miles of the trail are now fully funded, in design (based on the rail and trail decisions) and planned for completion in 2018. Another 2.1 miles of trail are funded through design and environmental work and 2.2 miles are being recommended for funding for design and environmental review. The current level of public interest in constructing the trail coupled with the extensive investment made to date in planning the project indicate that adopting a plan for BRT at the expense of the trail may not be an option the RTC would want to pursue.

Additionally, as described in detail under the trail-only option, the time and expense to abandon freight service, terminate existing agreements with the rail operator, engage in discussions with the CTC and the numerous other issues to consider, if removing the tracks, would need to be included if pursuing BRT on the rail corridor. Therefore, pursuing a BRT solution would take an unknown time span at an unknown cost. Staff does not have adequate information to assemble a cost or time estimate for a BRT system.

Cost estimate: Unknown – a significant amount of ROW may be needed for this option, additional costly signaling required for a one lane busway, and potential litigation associated with removal of tracks may be costly.

Legal considerations for BRT: Legal considerations for removing the tracks as discussed under the “trail only” option, a BRT Plan and associated environmental review.

Timeline to open service: Unknown given considerations discussed above.

### **Other Relevant Planning Work**

The RTC is currently working on two projects which will provide useful information to the RTC and the community as part of the process to evaluate options for use of the rail corridor. The Unified Corridor Investment Study will identify transportation investments that optimize usage of three parallel transportation corridors in Santa Cruz County: Highway 1, Soquel Avenue/Drive and the Santa Cruz Branch Rail Line while advancing sustainability goals. This study will provide an analysis of potential projects on the rail corridor integrated with projects on Highway 1 and Soquel Avenue/Drive using a performance based approach. The study will identify how various groups of projects (scenarios) will advance mobility, access, safety, economic vitality, equity and public and environmental health, including the need to

reduce greenhouse gas emissions. The study is expected to be completed by June 2018. In addition, the Sustainable Transportation Prioritization Plan project will develop visualization tools to help the community envision future transportation projects. This project is expected to be completed by late 2017/early 2018.

### **Summary**

The Commission directed staff to provide an outline of three possible uses of the Santa Cruz Branch Line rail corridor: rail with trail, trail only, and bus rapid transit (BRT) with trail. Available information on the legal considerations, cost estimates and an estimated timeline for each option are provided.

### **Attachments**

1. Rail Transit Feasibility Study Timeline
2. Measure D Expenditure Plan
3. Letter from the Land Trust of Santa Cruz County