

Comment Set C29
Northwestern Pacific Railroad Company

**NORTHWESTERN
PACIFIC
RAILROAD
COMPANY**

April 24, 2008

Sonoma-Marín Area Rail Transit District
Attention: Lillian Hames
General Manager
750 Lindaro Street, Suite 200
San Rafael, CA 94901

Dear Ms. Hames:

Northwestern Pacific Railroad Co. ("NWP Co.") appreciates the opportunity to comment on the SMART Draft EIR that was issued on March 10, 2008. As background information, in September 2006, NWP Co. entered into a long term Lease Agreement with the North Coast Railroad Authority ("NCRA") to operate freight and rail passenger excursion services on the NWP rail line from Lombard to Willits. By its Decision dated September 7, 2007, the Surface Transportation Board designated NWP Co. to be the operator of common carrier freight service on that portion of the NWP Line extending from SP MP 63.4, near Lombard, to NWP MP 142.5, near Willits. Accordingly, NWP Co.'s common carrier operating rights and obligations extend on that portion of the NWP Line between Cloverdale and the Ignacio Wye over which rail commuter train service is proposed to be operated by SMART.

NWP Co.'s comments on the SMART Draft SEIR are focused on but are not limited to the assumptions used in the cumulative analysis (as described in Chapter C.6 Revised Cumulative Impacts) of the Draft SEIR.

I. Freight/Passenger Train Operations and Separation

In Section C.6.1 (p. C.6-2), the cumulative analysis "... assumes that freight trains would operate primarily during off-peak passenger service time periods, consistent with NCRA's freight easement over SMART's corridor, which makes freight operations subordinate to regularly scheduled passenger commute operations" This assumption is a legal conclusion that does not accurately describe NWP Co.'s legal rights to operate its trains, as provided by statute, the property easement, the Operating Agreement and its related Coordination Agreement.

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Although the legal rights of the parties provide to SMART commuter trains a reasonable meet/pass priority over NWP freight trains, and NWP Co. trains must, therefore, take the siding during a meet/pass of such trains, the several legal agreements clearly also provide that “. . . such priority shall not materially adversely affect NWP Co.’s performance of its common carrier obligations, NWP Co.’s conduct of rail freight operations, or NWP Co.’s ability to provide adequate service to shippers and receivers . . .” as set forth in the SMART/NCRA Operating and Coordination Agreements. Accordingly, it is NWP Co.’s opinion that the underlying assumption of the Draft SEIR, namely that freight trains would operate primarily during off-peak passenger service time periods, should be corrected in the Final SEIR as freight and passenger service will operate compatibly, with neither having the right to entirely preempt any particular block of track time. Future experience over time will necessarily dictate passenger and freight usage and neither service can accurately predict a long term schedule in advance.

C29-1 cont.

The cumulative analysis also assumes that “. . . following trains, whether freight or passenger, may run no closer than 30 minutes behind their leaders . . .”, because of both the SMART commuter train schedules and the signal system that would control all rail train movements. This is an unrealistic assumption. Modern railroad signaling systems, as simple as automatic block signal systems or as complex as centralized train control systems, readily permit following trains to operate up as close as 3 – 4 minutes behind the preceding trains, whether such trains be passenger or freight trains. Since a SMART requirement of 30-minute headways would reduce the capacity of the NWP Line to only two trains per hour in each direction, NWP Co. requests that SMART reconsider both this assumption as well as modernization to current railroad standards of the signal system that it proposes to install in the SMART Corridor.

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II. Hours of Freight Operation and System Capacity

In Section C.6.1 (p. C.6-2), the Draft SEIR asserts that “. . . freight train service at the levels proposed by NCRA could be accommodated on the SMART right-of-way during daytime off-peak hours without the need for night trains . . .”

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NWP Co. understands that SMART proposes to operate 14 northbound and 14 southbound commuter trains daily on weekdays (six in the morning peak period and six in the evening peak period), and four trains northbound and four trains southbound on Saturdays and Sundays. The weekday commuter trains will operate every thirty minutes at regular intervals. Most commuter train meets will

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be made at stations although there are four new sidings planned north of Ignacio. On weekdays, there is one midday turn that operates from Cloverdale to San Rafael and return generally between the hours of 10:00 a.m. and 2:00 p.m. The proposed commuter schedules that were evaluated in the Draft SEIR do not now contemplate the use of non-compliant equipment that would require either a time or space separation in order to comply with FRA regulations.

C29-3 cont.

SMART's proposed freight train schedules may be unrealistic in their representation of the freight capacity that NWP Co. needs in the Ignacio to Cloverdale Corridor. As an example, in the event NWP Co. operates a solid waste train, it will be necessary to accommodate connecting train schedules with the Union Pacific. Decisions on schedules are not made unilaterally, but in the context of intra and interstate commerce over trackage owned by other lines. As a common carrier so-designated by the Surface Transportation Board, NWP Co. is obligated to operate trains at times and with the frequencies required so as to fully perform its common carrier obligations, and to conduct safe, timely, and efficient rail freight operations that provide adequate rail freight service to the shippers and receivers on the NWP Line, not all of which can be anticipated at this time. As SMART accurately points out in the Draft SEIR, NWP Co.'s common carrier status will permit it to operate trains at night, which may or may not be necessary depending on track capacity and the obligation to provide adequate service to rail customers.

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During the last 50 years, the NWP Line's infrastructure has functioned adequately as a rail freight service corridor. NWP Co. is persuaded that the NWP Line can also function effectively as a rail commuter service corridor so long as sufficient infrastructure is added to the NWP Line to accommodate the capacity requirements of the new SMART commuter service. Determining the correct amount of infrastructure in order to accommodate both services will require an ongoing degree of planning and coordination between SMART and NWP Co.

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III. Time Separation With Light DMUs

In Section C.6.1 (p. C. 6-2), the Draft SEIR acknowledges that "... in the event that light DMUs are used for the SMART Project, time separation would be required by the FRA . . ." We concur with this SMART assumption. However, the Draft SEIR then further assumes that the use of Positive Train Control technology (PTC) may be approved by FRA for the use of light DMUs on single track systems that handle both passenger and freight service simultaneously, an assumption that NWP Co. believes to be unrealistically optimistic. PTC

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technology has been under development for over a decade and has not yet been accepted or implemented either by the railroad industry or by its safety regulator, FRA. Without approved PTC technology, if light DMUs were selected as the SMART project vehicle, the effect would be to prevent any NWP Co. freight or excursion passenger train operations during the entire time period that SMART's rail commuter trains were actively operating on the NWP Line; thus, NWP Co.'s freight operations would necessarily be shifted largely to night operations, if this SMART scenario were implemented.

C29-6 cont.

An alternative that NWP Co. suggests for SMART's consideration would be the separation of the existing SMART Corridor into a two-track system, one of which would be dedicated to light DMU operations, and the second of which would be dedicated to NWP Co. freight and excursion passenger train operations. It is NWP Co.'s opinion that the existing right-of-way on the NWP Line is generally adequate to accommodate two separate tracks, including the required passing sidings, for both services. Advanced engineering designs in the SMART Corridor, including flyovers for the light DMU track at appropriate locations that would permit NWP Co. to access its freight customers, would permit both systems could be operated efficiently and harmoniously in the existing SMART Corridor. Moreover, rather than dismantling, removing, and then replacing the existing main track in the SMART Corridor -- as SMART proposes to do -- simply constructing a new, parallel track for use by any SMART commuter rail service while retaining the existing main track for freight service would significantly expand system track capacity in the SMART Corridor and avoid all of the costs of dismantling and removing the existing main track.

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IV. Truck Traffic Offsets

In Section C.6.1 (p. C. 6-3), the Draft SEIR has assumed "... an equivalency of two trucks for each rail car movement. . . ." for general merchandise premised on a further assumption that rail cars are more likely than trucks to be returned empty. For the rail freight traffic projected to be attracted by NWP Co., this assumption is simply wrong. The principal general merchandise commodities projected to be attracted by NWP Co. are grain, lumber, and aggregate inbound, and wine outbound. Outbound packaged wine is shipped in either insulated or refrigerated closed highway trucks (or railcars) that usually arrive in NWP's service territory after having been unloaded in either the Bay Area or Los Angeles; such closed trucks (or railcars) are not and would not be used to handle inbound grain, lumber, or aggregate, all of which are not compatible with wine and move only in specialized trucks (or railcars). Accordingly, the incorrect assumption contained

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in the Draft SEIR of “. . . an equivalency of two trucks for each rail car movement . . .” must be revised to an equivalency of four trucks for each rail car movement in order to be factually and technically correct.

C29-8 cont.

V. Public Safety

The SMART rail commuter service project includes a proposal to construct a bicycle/pedestrian pathway largely on its own right-of-way from Ignacio to Healdsburg and entirely on NCRA’s right-of-way between Healdsburg and Cloverdale. SMART’s Operating Plan proposes high-speed commuter passenger trains of 80 miles per hour with freight operations of 49 miles per hour in the SMART Corridor.

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The design specifications for the bicycle/pedestrian pathway set forth in SMART Drawing No. XS-001 provide for a minimum trail set-back of 15 feet and a maximum trail set-back of 40 feet between the center line of the main track and a “K” rail barrier to be constructed adjacent to the bicycle/pedestrian path. Among the two major western railroads, Union Pacific will not allow new trails on its active right-of-way and BNSF Railway requires a 100 ft. trail set-back where train speeds are in the 70 – 90 mph range, for safety reasons. The use of a 100-foot trail set-back in conjunction with SMART’s 80 mph commuter trains, such as is required by BNSF, would not be possible within the existing SMART Corridor as it generally ranges between only 60 and 80 feet in width.

According to the Draft EIR in Section C.6.5 (page C. 6-17), “. . . safety was one of the primary criteria used in planning and evaluating the proposed bicycle/pedestrian pathway . . .” The Draft SEIR then cites a report by Alta Planning+Design study as the basis for the Draft SEIR’s conclusion that the construction of the proposed bicycle/pedestrian pathway within or adjacent to the rail corridor will not adversely impact public safety. The Draft SEIR’s use of the Alta Report as rationale supporting its public safety conclusion is incomplete and perhaps misleading, as the following quotation from SMART Working Paper No. 5 demonstrates:

“The Rails to Trails Conservancy report entitled *Rails with Trails* identifies over 60 bicycle/pedestrian trails along active railroads in the U.S. The *Rails with Trails: Lessons Learned* report, prepared by Alta Transportation Consulting for FHWA and others, examines 21 of these trails on or adjacent to railroads. Of those 21, only four were along tracks with speeds in excess of 51-mph and of those four, only one was

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actually on railroad right-of-way. That one had a minimum setback distance of 25 feet and was only one mile in length.”

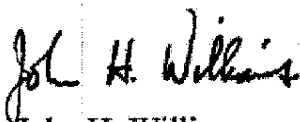
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(*SMART Working Paper #5*, October 2003, Appendix A, p. 3, Emphasis Added)

It is NWP Co.'s opinion, based on the stated policies of BNSF and UP and on our knowledge and experience, that the construction and placement of the proposed bicycle/pedestrian pathway adjacent to, without an adequate set-back from NWP's main track, and in such close proximity to the operations of freight and 80 mph high-speed commuter service trains could very well be unsafe for pathway users and for the public. Safety could also be impacted by NWP Co.'s freight train movements and its numerous switching operations that will be within, across, or in close proximity to the proposed bicycle/pedestrian pathway. NWP Co. recommends, therefore, that the Final SEIR take into account the experience of other freight and passenger railroads in assessing safety issues related to bicycle/pedestrian proximity to active tracks.

Thank you for the opportunity to comment on SMART's Draft SEIR. Please let me know if there are questions.

Sincerely,



John H. Williams
President

JHW/ja

cc: Doug Bosco
Mitch Stogner
Allan Hemphill