

CLARK HILL

Justin J. Marks
T 202.772.0916
F 202.772.0930
Email: jmarks@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue NW
Suite 1300
Washington, DC 20004
T 202.772.0909
F 202.772.0919

clarkhill.com

301662

February 22, 2021

VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

ENTERED
Office of Proceedings
February 22, 2021
Part of
Public Record

Re: STB Docket No. AB 1310X
Northwestern Pacific Railroad Company
-Discontinuance of Service Exemption-
In Marin, Napa, and Sonoma Counties, CA

Dear Ms. Brown:

Enclosed for filing in the above referenced docket is a Petition for Exemption for the Northwestern Pacific Railroad Company to discontinue a line of railroad. The filing fee has been paid via pay.gov. If there are any questions related to this filing, please contact me.

Sincerely,



Justin J. Marks
Counsel to Northwestern Pacific Company

Enclosures

FILED
February 22, 2021
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
February 22, 2021
SURFACE
TRANSPORTATION BOARD

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB-1310X

**NORTHWESTERN PACIFIC RAILROAD COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN MARIN, NAPA, AND SONOMA COUNTIES, CA**

PETITION FOR EXEMPTION

(color images included)

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8523
ehocky@clarkhill.com

*Counsel for Northwestern Pacific Railroad
Company*

Dated: February 22, 2021

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB-1310X

**NORTHWESTERN PACIFIC RAILROAD COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN MARIN, NAPA, AND SONOMA COUNTIES, CA**

PETITION FOR EXEMPTION

Pursuant to 49 U.S.C. §10502 and 49 C.F.R. parts 1121 and 1152, Northwestern Pacific Railroad Company (“NWPCO”), a Class III railroad common carrier, files this petition seeking an exemption from the provisions of 49 U.S.C. §10903 to discontinue service over the rail line between approximately milepost NWP 89 near the Sonoma-Mendocino County Border and approximately milepost SP 63.4 at Lombard in Napa County, CA, a distance of approximately 87.65 miles (the “Subject Line”) in Marin, Napa and Sonoma Counties, California. A map of the Subject Line is attached hereto as Exhibit A. In support of its request for exemption, NWPCO represents as follows:

I. BACKGROUND

The Subject Line is 87.65 miles long in Marin, Napa and Sonoma Counties, California. It traverses through United States Postal Service ZIP Codes 95448, 95425, 95492, 95441, 95439, 95403, 95401, 95407, 94928, 94931, 94951, 94954, 94952, 94945, 94949, 94503, 95476, 94559. Because this proceeding would involve the discontinuance of common carrier service and not abandonment of the Subject Line, NWPCO understands that the question of whether the Subject Line contains federally granted rights-of-way is inapplicable. Any documentation related to title

in NWPCO's possession will be made promptly available to those requesting it. There are freight stations on the line.¹

Presently, NWPCO operates the Subject Line pursuant to a Lease with the North Coast Railroad Authority ("NCRA"), a California governmental entity.² NCRA owns the portion of the Subject Line between the Sonoma-Mendocino County, CA border (NWP MP 89)³ and Healdsburg, CA (NWP MP 68.2) and has a freight rail operating easement on the portion of the Subject Line between the same point in Healdsburg and Lombard, CA (SP MP 63.4). Sonoma-Marín Area Rail Transit District ("SMART"), another California governmental entity, owns the portion of the Subject Line between Healdsburg, CA (NWP MP 68.2) and Lombard, CA (SP MP 63.4).⁴

Pursuant to the North Coast Railroad Authority Closure and Transition to Trails Act⁵, NCRA is expected to transfer its property interests and common carrier obligations on the Subject Line to SMART. SMART, which has applied for Board authorization to acquire the Subject Line from NCRA⁶, will then assume operation of the Subject Line as a rail common

¹ Freight stations on the line are as follows: Brazos Jct, CA – MP B49.8; Schellville, CA – MP B40.4; Black Point, CA – MP B28.5; Novato, CA – MP 27.8; Burdell, CA – MP 31.3; Petaluma, CA – MP 38.5; Crown, CA – MP 41.0; Cotati, CA – MP 46.1; Wilfred, CA – MP 48.9; Todd, CA – MP 50.7; Santa Rosa, CA – MP 53.8; Fulton, CA – MP 58.5; Shiloh, CA – MP 61.0; Windsor, CA – MP 62.9; *See Exhibit A* for a list of SMART commuter rail stations on the Subject Line.

² *Northwestern Pacific Railroad Company—Change in Operators Exemption—North Coast Railroad Authority, Sonoma-Marín Area Rail Transit District and Northwestern Pacific Railway Co., LLC*, Finance Docket No. 35073 (STB served Aug. 30, 2017).

³ All mileposts designations herein are approximate.

⁴ *See Sonoma-Marín Area Rail Transit Dist. Acquis. Exemption Nw. Pac. R.R. Auth.*, FD 34400 (STB served Mar. 10, 2004).

⁵ North Coast Railroad Authority — Dissolution, 2018 Cal. Legis. Serv. Ch. 934 (S.B. 1029) (WEST).

⁶ *See Verified Notice of Exemption, Sonoma-Marín Area Rail Transit District – Acquisition and Operation Exemption – North Coast Railroad Authority*, STB Docket No. FD 36481 (filed Feb.

carrier. The transaction between SMART and NCRA and SMART's assumption of rail common carrier operations on the Subject Line will render NWPCO's rail common carrier operations unnecessary. Thus, NWPCO seeks an exemption from the Board to discontinue service over the Subject Line. No shipper will lose or have an interruption in railroad service as a result of NWPCO's discontinuance of service.

II. ARGUMENT SUPPORTING THE DISCONTINUANCE OF SERVICE

The Board has jurisdiction over the proposed discontinuance pursuant to 49 U.S.C. §10903. Under 49 U.S.C. §10502, the Board must exempt a transaction from regulation when it finds that: (1) regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. §10101 and (2) either: (a) the transaction is of limited scope, or (b) regulation is not necessary to protect customers from the abuse of market power.

The legislative history of Section 10502 shows that Congress intended for the Board to use its exemption authority to free certain transactions from the administrative and financial costs associated with continued regulation. When enacting the Staggers Rail Act of 1980, Pub. L. No. 96-488, 94 Stat. 1895, Congress encouraged the Board's predecessor agency to use its exemption authority liberally:

The policy underlying this provision is that while Congress has been able to identify broad areas of commerce where reduced regulation is clearly warranted, the Commission is more capable through the administrative process of examining the specific regulatory provisions and practices not yet addressed by Congress to determine where they can be deregulated consistent with the policies of Congress. The conferees expect that, consistent with the policies of this Act, the Commission will pursue partial and complete exemption from remaining regulation.

2, 2021). Initially, SMART will temporarily operate the Subject Line under an agreement with NWPCO, as SMART's contract operator. Thereafter, SMART will evaluate whether to provide services directly or continue with a contract operator.

H.R. Rep. No. 1430, 96th Cong. 2d Sess. 105 (1980). *See also Exemption From Regulation – Boxcar Traffic*, 367 I.C.C. 424, 428 (1983), vacated and remanded on other grounds, *Brae Corp. v. United States*, 740 F.2d 1023 (D.C. Cir. 1984). Congress reaffirmed this policy in the conference report accompanying the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which re-enacted the rail exemption as Section 10502. H.R. Rep. No. 422, 104th Cong. 1st Sess. 168-69 (1995).

Unless the requested exemption is granted, NWPCO's discontinuance of service will be subject to 49 U.S.C. §10903 and the Board's regulations implementing that section at 49 C.F.R. Part 1152. This transaction should be exempted from regulatory requirements because it satisfies the standards of Section 10502: (1) regulation is not necessary to carry out the federal rail transportation policy ("RTP") of 49 U.S.C. §10101 and (2) the transaction is of limited scope.⁷

A. The Application of 49 U.S.C. § 10903 Is Not Necessary to Carry Out the Rail Transportation Policy

Detailed scrutiny of NWPCO's proposed discontinuance under 49 U.S.C. §10903 is not necessary to carry out the RTP. NWPCO and NCRA have agreed to terminate the Lease because SMART will provide common carrier service over the Subject Line after it acquires NCRA's ownership of and easement interest in the Subject Line. This transaction will not cause any interruption in service over the Subject Line. An exemption from the application process would promote a fair and expeditious regulatory decision-making process, reduce regulatory barriers to exit, and result in the efficient handling of this proceeding. 49 U.S.C. §§10101(2) and (7), (15).

⁷ Because the transaction is of limited scope, it is not necessary for NWPCO to demonstrate that regulation is not needed to protect shippers from the abuse of market power. Even so, regulation is not needed to protect shippers from the abuse of market power. All shippers on the Subject Line have access to truck transportation and in any event will not lose railroad service or experience an interruption in railroad service as a result of NWPCO's discontinuance.

Additionally, granting an exemption for NWPCO's proposed discontinuance will foster sound economic conditions and encourage efficient management of railroads. 49 U.S.C. §§10101 (5), and (9). Other aspects of the rail transportation policy will not be adversely affected.

B. This Transaction is Limited in Scope

This transaction is of limited scope. U.S.C. § 10502(a)(2)(A). In 2019, NWPCO operated an average of 2 roundtrips per week, with an average of 11 carloads per week⁸. Thus, this is an ultra-light density line. No shipper will lose rail service or experience an interruption of rail service as a result of this transaction due to SMART's assumption of the common carrier obligations on the Subject Line.⁹

C. This Transaction Will Not Result in an Abuse of Market Power

Because there will be an uninterrupted continuation of rail service, and because all shippers have access to truck transportation, regulation is not needed to protect shippers from an abuse of market power. *See Kasgro Rail Corp. – Discontinuance of Service Exemption – In Lawrence County, PA*, No. AB-1246X, slip op. at 2 (STB served July 31, 2018); *Gateway Western R. Co. – Discontinuance of Service Exemption – In Jackson County, MO*, slip op. at 2 (STB served July 21, 2000).

III. ADDITIONAL INFORMATION

NWPCO's proposed discontinuance is not eligible for the Board's class exemption for out of service rail lines because it has been providing the service required. Although not required under the Board's regulations for discontinuance petitions for exemption, NWPCO hereby

⁸ This does not include relatively short-distance and frequent movement of LPG cars to and from storage tracks located in the Schellville rail yard, near the eastern end point of the Subject Line.

⁹ NWPCO has notified all of the listed shippers of this proposed discontinuance and the planned assumption by SMART of common carrier operations on the Subject Line.

provides the following additional information that would be required under 49 C.F.R. § 1152.50(d)(2) and 1152.22 if the discontinuance were sought pursuant to the Board's class exemption:

1. The exact name of Applicant is Northwestern Pacific Railroad Company.
2. Applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105.¹⁰
3. NWPCO seeks to discontinue service on the Subject Line extending between approximately milepost NWP 89 near the Sonoma-Mendocino County Border and approximately milepost SP 63.4 at Lombard in Napa County, CA, a distance of approximately 87.65 miles of rail line in Marin, Napa and Sonoma Counties, California.
4. A map of the Subject Line is attached hereto as Exhibit A.
5. The representative of NWPCO to whom correspondence should be sent is:

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave., NW
Suite 1300 South
Washington, DC 20004
Tel: (202) 772-0916
6. The Subject Line to be discontinued traverses through United States ZIP Codes 95448, 95425, 95492, 95441, 95439, 95403, 95401, 95407, 94928, 94931, 94951, 94954, 94952, 94945, 94949, 94503, 95476, 94559.
7. The petition for exemption presented herein pertains to NWPCO's proposal to discontinue common carrier freight operations over the Subject Line and not abandonment

¹⁰ *Northwestern Pacific Railroad Company—Change in Operators Exemption—North Coast Railroad Authority, Sonoma-Marin Area Rail Transit District and Northwestern Pacific Railway Co., LLC*, Finance Docket No. 35073 (STB served Aug. 30, 2017).

authority. Accordingly, trail use / rail banking and other public use conditions are not appropriate.¹¹

8. Applicant proposes to consummate the discontinuance on or after the effective dates of the discontinuance in this proceeding, and of SMART's Notice of Exemption in Docket No. FD 36481.

No formal complaint by a user of rail service on the Subject Line, or a state or local government entity acting on behalf of such user, regarding NWPCO's cessation of service over the Subject Line, either is pending with the Board or any U.S. District Court or has been decided in favor of the complainant within the last two years.

IV. ENVIRONMENTAL AND HISTORICAL REPORTING REQUIREMENTS

An environmental and historic report is not required for a discontinuance proceeding.¹² Further, because NWPCO seeks only discontinuance and not abandonment authority (and because the Subject Line will be owned/operated by SMART and not by NWPCO), NWPCO will not be disposing of or altering the Subject Line or any structures that are 50 years old or older.

¹¹ See *Norfolk Southern Railway Company – Discontinuance of Service Exemption – In St. Joseph and LaPorte Counties, IN*, STB Docket No. AB-290 (Sub-No. 307X) (served June 18, 2008); *Everett Railroad Company – Discontinuance of Service Exemption – In Blair County, PA*, STB Docket No. AB-721X (served November 16, 2007); *Columbus and Greenville Railway Company – Discontinuance of Service Exemption – In Greenwood, MS*, STB Docket No. AB-297 (Sub-No. 103X) (served July 2, 2007).

¹² See *supra* note 11 and 49 C.F.R. §1105.6(c) and §1105.8(b).

V. NOTICE

Pursuant to the provisions of 49 C.F.R. §1152.60(c), NWPCO has attached as Exhibit B, a draft Federal Register notice of its Petition to be published by the Board within 20 days of the Petition's filing with the Board.

The newspaper notice as required by 49 C.F.R. §1105.12 was published on February 7, 2021 in the *Santa Rosa Press Democrat*. A copy of the proof of publication is attached as Exhibit C.

A copy of the notice dated February 4, 2021, that was sent to the required governmental agencies under 49 C.F.R. §1152.50(d)(1) is attached hereto as Exhibit D, and a copy of this Petition is being served on those agencies as required by 49 C.F.R. §1152.60(d).

VI. LABOR PROTECTION

NWPCO respectfully requests that the Board not impose labor protection conditions on this discontinuance. The Board will typically impose labor protective conditions in a discontinuance proceeding subject to the standard employee protective conditions as set forth in *Oregon Short Line Railroad Co. -- Abandonment -- Goshen*, 360 I.C.C. 91 (1979). But the Board will decline to do so in discontinuance proceedings if a carrier operating solely over lines it does not own seeks to discontinue its entire system and therefore all of its Board-issued common carrier authority resulting in the carrier's exit from the Board-regulated rail industry. For a discussion of the Board's rationale see *Manufacturers Railway Co. – Discontinuance Exemption – in St. Louis County, Mo.* STB Docket No. AB 1075X, slip op. at 2 (served Feb. 6, 2013) (“Manufacturers Railway”). The Board does not impose labor conditions in this instance because the carrier “would not be maintaining rail operations that would provide other employment opportunities for affected workers or generate revenue to fund employee dismissal allowances.” *Id.*

NWPCO is discontinuing the entirety of its active rail service. Once the discontinuance is consummated, NWPCO will begin the process of exiting from the Board regulated railroad industry and as such it will no longer exist to provide other employment opportunities for displaced workers, and operating revenues will not be generated to fund dismissal allowances. However, at least for the immediate future, NWPCO will retain operating authority on a segment of line north of the Subject Line from milepost 89 to milepost 142.5 (“Out-of-Service Line”). NCRA owns the Out-of-Service Line and holds a residual common carrier obligation¹³ and the State of California is exploring the feasibility of developing the Out-of-Service Line as a trail.¹⁴

NWPCO has never offered service on the Out-of-Service Line because it has been under Federal Railroad Administration Emergency (“FRA”) Order 21 (“EO 21”) prohibiting railroad operations since 1998. FRA imposed EO 21 on predecessor railroads to NWPCO (one of which that held the same name) on the Out-of-Service Line as well as a large segment of the Subject Line nine years before NWPCO obtained operating authority and thirteen years before NWPCO began its current operations. FRA subsequently lifted the order on segments of the Subject Line in 2011 that allowed NWPCO to provide freight service.¹⁵

¹³ *North Coast Railroad Authority – Purchase Exemption – Southern Pac. Transp. Co.*, STB Finance Docket No. 32788 (served Mar. 20, 1996).

¹⁴ North Coast Railroad Authority — Dissolution, 2018 Cal. Legis. Serv. Ch. 934 (S.B. 1029) (WEST); California State Transportation Agency, *Assessment of the North Coast Railroad Authority and Viability of a Great Redwood Trail, Report to the Legislature 2020*, available at <https://calsta.ca.gov/-/media/calsta-media/documents/sb-1029-assessment-of-ncra-report-to-legislature-111220.pdf>.

¹⁵ See *Northwestern Pacific Railroad Co.; Notice of Partial Relief from Emergency Order No. 21*, 76 Fed. Reg. 27171 (May 10, 2011).

Although, NWPCO will be retaining its operating authority for the time being over the Out-of-Service Line, the line has been under FRA EO 21 for over 22 years. NWPCO's request is similar to the scenario discussed in Manufacturers Railway because once SMART assumes control of the Subject Line, NWPCO's railroad operations will cease, and it will have no operations to accommodate its employees. NWPCO does not intend to rehabilitate the Out-of-Service Line and will likely file for discontinuance authority on it in the future.

Since no NWPCO operations will exist to accommodate a transfer of employees and operating revenues will not be generated to fund dismissal allowances, NWPCO respectfully requests that the Board treat this discontinuance as a "whole line" discontinuance by a non-owner of the underlying rail line and decline to impose labor conditions in this proceeding.

VII. REQUEST FOR EXPEDITED CONSIDERATION

As noted above, SMART is acquiring the Subject Line and will be assuming the common carrier obligation over the Subject Line, NWPCO respectfully requests expedited consideration of this Petition to allow the transition to SMART to proceed promptly.

VIII. CONCLUSION

For the reasons set forth above, NWPCO requests that the Board, under 49 U.S.C. §10502, exempt its discontinuance over the Subject Line from regulation under 49 U.S.C. §10903.

Respectfully submitted,



Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8523
ehocky@clarkhill.com

*Counsel for Northwestern Pacific Railroad
Company*

Dated: February 22, 2021

VERIFICATION

I hereby verify on behalf of Northwestern Pacific Railroad Company, under penalty of perjury, that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

Executed on February 19, 2021



Douglas Bosco, President

EXHIBIT A

MAP

**MENDOCINO
COUNTY**

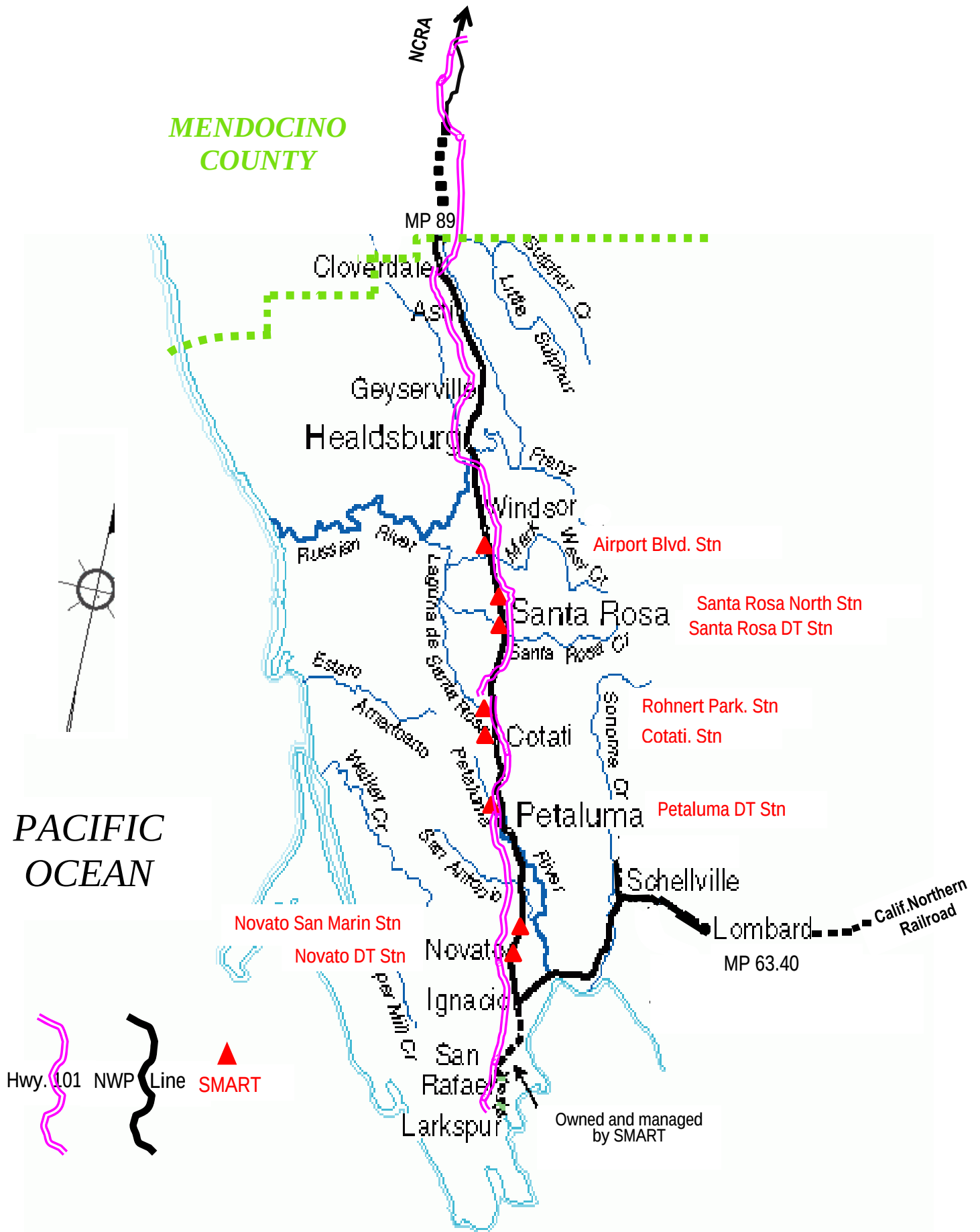


EXHIBIT B

DRAFT FEDERAL REGISTER NOTICE

STB No. AB-1310X

Notice of Petition for Exemption To Discontinue Rail Service

On February 22, 2021, Northwestern Pacific Railroad Company (NWPCO) filed with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption for the discontinuance of service on a line of railroad extending from railroad milepost 89 near the Sonoma-Mendocino County Border to SP 63.4 at Lombard in Napa County, which traverses through United States Postal Service ZIP Codes 95448, 95425, 95492, 95441, 95439, 95403, 95401, 95407, 94928, 94931, 94951, 94954, 94952, 94945, 94949, 94503, 95476, 94559, a distance of 87.65 miles, in Marin, Napa, and Sonoma Counties, CA. The line for which the discontinuance exemption request was filed includes the stations of: Brazos Jct, CA – MP B49.8; Schellville, CA – MP B40.4; Black Point, CA – MP B28.5; Novato, CA – MP 27.8; Burdell, CA – MP 31.3; Petaluma, CA – MP 38.5; Crown, CA – MP 41.0; Cotati, CA – MP 46.1; Wilfred, CA – MP 48.9; Todd, CA – MP 50.7; Santa Rosa, CA – MP 53.8; Fulton, CA – MP 58.5; Shiloh, CA – MP 61.0; Windsor, CA – MP 62.9.

In FD 36481, the Sonoma-Marin Area Transit District is seeking authority to acquire the Subject Line and to provide common carrier freight service in place of NWPCO.

Because this proceeding would involve the discontinuance of common carrier service and not abandonment of the Subject Line, NWPCO understands that the question of whether the Subject Line contains federally granted rights-of-way is inapplicable. Any documentation related to title in NWPCO's possession will be made available promptly to those requesting it.

NWPCO is requesting that the Board decline to impose labor conditions in this proceeding.

Any offer of financial assistance to subsidize will be due no later than 10 days after service of a decision granting the petition for exemption.

Because the Subject Line will continue to be operated following discontinuance, the Subject Line is not suitable for other public use, including interim trail use.

Any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after notice of the filing of the petition for exemption is published in the Federal Register.

Persons seeking further information concerning discontinuance procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis.

Because NWPCO seeks only discontinuance and not abandonment authority (and because the Subject Line will be owned/operated by SMART and not by NWPCO), NWPCO will not be disposing of or altering the Subject Line or any structures that are 50 years old or older. An

environmental and historic report is not required for a discontinuance proceeding.

EXHIBIT C

NEWSPAPER NOTICE

PROOF OF PUBLICATION

(2015.5 C.C.P.)

STATE OF CALIFORNIA

County of Sonoma

I am a citizen of the United States and a resident of the county aforesaid: I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of The Press Democrat, a newspaper of general circulation, printed and published DAILY IN THE City of Santa Rosa, County of Sonoma; and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Sonoma, State of California, under the date of November 29, 1951, Case number 34831, that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates to wit:

The Press Democrat - Legal Notices

2/7 - 2/7/2021

I certify (or declare) under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Dated at Santa Rosa, California, on

Feb 8, 2021



SIGNATURE

This space for County clerk's Filing Stamp

Proof of Publication of

NOTICE OF INTENT TO DISCONTINUE RAIL SERVICE

Northwestern Pacific Railroad Company (NWPCO) issues this notice that on or about February 15, 2021, it intends to file with the Surface Transportation Board (STB), Washington, DC 20423, a petition of exemption pursuant to the provisions of 49 CFR Part 1152 Subpart F - Exempt Abandonments and Discontinuances of Service and Trackage Rights permitting NWPCO to discontinue service over approximately 87.65 miles of the line of railroad between milepost NWP 89 near the Sonoma-Mendocino County Border and milepost SP 63.4 at Lombard in Napa County, CA (the Line). The Line traverses through United States ZIP Codes 95448, 95425, 95492, 95441, 95439, 95403, 95401, 95407, 94928, 94931, 94951, 94954, 94952, 94945, 94949, 94503, 95476, 94559. The NWPCO proceeding will be docketed as STB Docket No. AB - 1310X.

Because the proposed action entails the discontinuance of service over the Line, rather than abandonment, no environmental or historic documentation is required under 49 CFR 1105.6 and 1105.8. Appropriate offers of financial assistance to subsidize rail service can be filed with the STB. Trail use / rail banking and public use condition requests are not appropriate in discontinuance proceedings.

An original and 10 copies of any pleading that raises matters other than environmental issues (such as offers of financial assistance to subsidize rail service) must be filed directly with the STB's Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423-0001 [see 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [see 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance may be directed to the STB's Office of Public Assistance, Governmental Affairs and Compliance at 202-245-0238. Copies of any comments or requests for conditions should be served on NWPCO's representative: Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. N.W. Suite 1300 South, Washington, DC 20004; 202-772-0916.

78032 - Pub Feb 7, 2021.

1ti.

EXHIBIT D

10 DAY NOTICES

CLARK HILL

Justin J. Marks
T 202.772.0916
F 202.772.0930
Email: jmarks@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue NW
Suite 1300
Washington, DC 20004
T 202.772.0909
F 202.772.0919

clarkhill.com

February 4, 2021

To: All Persons on the Attached Service List

Re: STB Docket No. AB 1310X
Northwestern Pacific Railroad Company
-Discontinuance of Service Exemption-
In Marin, Napa, and Sonoma Counties, CA

Dear Sir or Madam:

This letter is being sent to you pursuant to the requirements of 49 C.F.R. §1152.50(d), to advise you that Northwestern Pacific Railroad Company (“NWPCO”) plans to seek authorization from the Surface Transportation Board (“STB”) to discontinue service over the line of railroad described below, by filing a petition for exemption pursuant to the provisions of 49 CFR Part 1152 Subpart F. NWPCO expects to file the petition for exemption with the STB on or about February 15, 2021, under STB Docket No. AB 1310X.

NWPCO will invoke the STB’s exemption procedures to discontinue service of the line of railroad between approximately milepost NWP 89 near the Sonoma-Mendocino County Border and approximately milepost SP 63.4 at Lombard in Napa County, CA (the Line). NWPCO leases the Line from the North Coast Railroad Authority (“NCRA”), a California governmental entity which owns the segment of the Line between the Sonoma-Mendocino County, CA border at NWP MP 89 and Healdsburg, CA at NWP MP 68.2. NCRA holds a freight rail easement between NWP MP 68.2 and SP MP 63.4 at Lombard, CA.¹

Pursuant to the North Coast Railroad Authority Closure and Transition to Trails Act, the State of California plans to dissolve NCRA and cause NCRA to transfer its ownership and easement rights on the Subject Line to SMART. SMART will then assume operation of the Subject Line as a rail common carrier.² Because SMART is assuming common carrier operations, NWPCO is discontinuing its service. The Line traverses through United States Zip

¹ Sonoma-Marin Area Rail Transit District (“SMART”), another California governmental entity, owns the portion of the Subject Line between Healdsburg, CA (NWP MP 68.2) and Lombard, CA (SP MP 63.4).

² See *Verified Notice of Exemption, Sonoma-Marin Area Rail Transit District – Acquisition and Operation Exemption – North Coast Railroad Authority*, STB Docket No. FD 36481 (filed Feb. 2, 2021).

February 4, 2021

Page 2

Codes 95448, 95425, 95492, 95441, 95439, 95403, 95401, 95407, 94928, 94931, 94951, 94954, 94952, 94945, 94949, 94503, 95476, 94559. A map of the Line is enclosed with this letter.

Because this proceeding would involve the discontinuance of common carrier service and not abandonment of the Line, NWPCO understands that the question of whether the Line contains federally granted rights-of-way is inapplicable, and that the Line would not be suited at this time for alternative public use. Although it is not the owner of the Line, any pertinent documentation in the railroads' possession will be made available promptly to those requesting it.

NWPCO has no current plans to salvage the track along the Line as a result of discontinuance.

Sincerely,

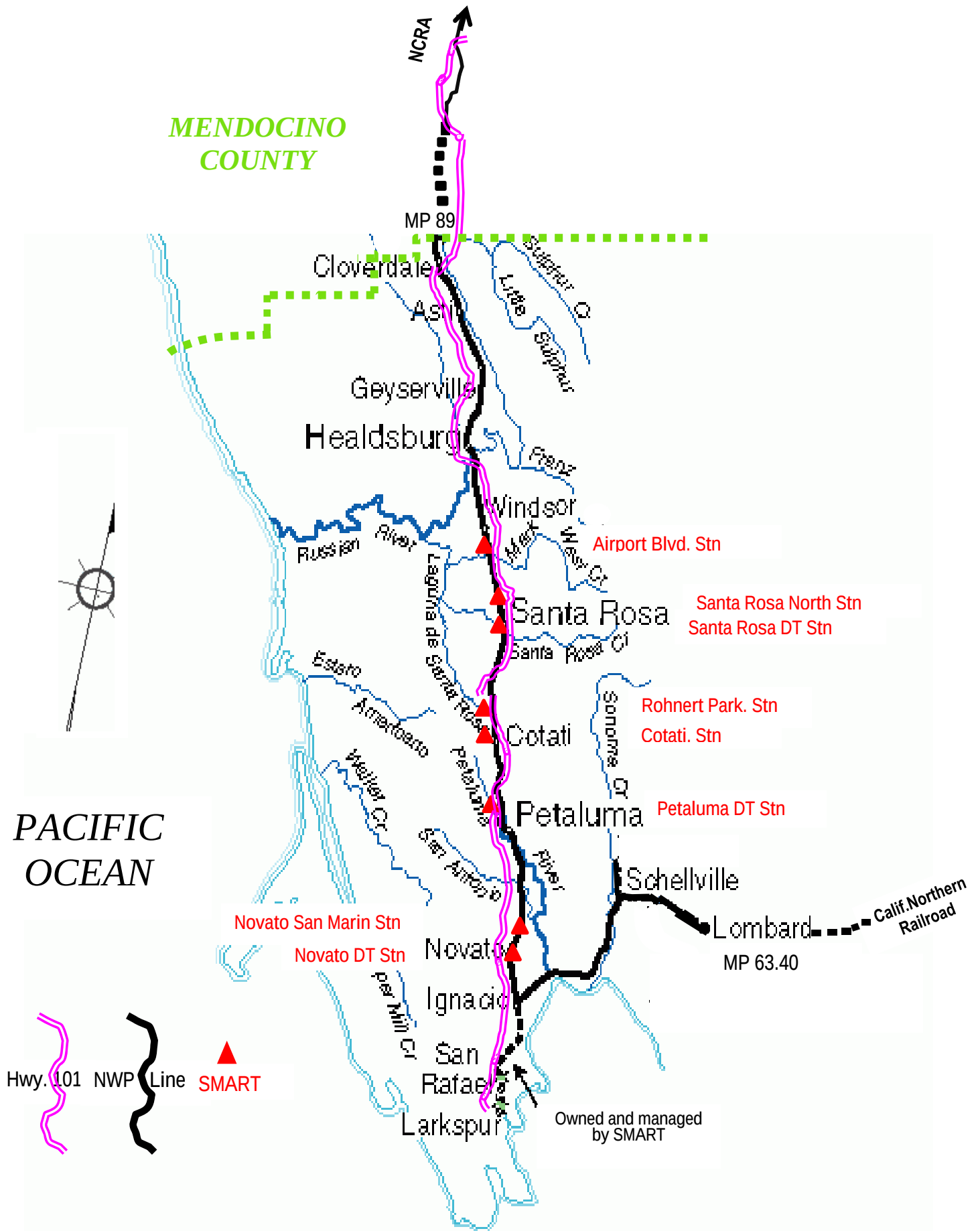


Justin J. Marks

Counsel to Northwestern Pacific Company

Enclosures

**MENDOCINO
COUNTY**



U.S. Department of the Interior -
National Park Service
RTCA Program
1849 C Street, NW
Washington, DC 20240

Office of Chief of Forest Service
U.S. Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250-1111

United States Department of the Army
Military Surface Deployment and Distribution
Command
Transportation Engineering Agency
ATTN: SDTE-SA (Railroads for National
Defense)
1 Soldier Way, Building 1900W
Scott AFB, IL 62225

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing Petition for Exempt Discontinuance was served on the persons shown on the attached list by email and/or first-class mail, postage prepaid.

U.S. Department of the Interior -
National Park Service
RTCA Program
1849 C Street, NW
Washington, DC 20240

Office of Chief of Forest Service
U.S. Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250-1111

United States Department of the Army
Military Surface Deployment and Distribution
Command
Transportation Engineering Agency
ATTN: SDTE-SA (Railroads for National
Defense)
1 Soldier Way, Building 1900W
Scott AFB, IL 62225

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Kevin M. Sheys
Edward J. Fishman
Carolyn G. Kraska
Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street NW
Washington, DC 20004
Kevin.sheys@hoganlovells.com
Edward.fishman@hoganlovells.com
Carolyn.kraska@hoganlovells.com



Justin J. Marks

Dated: February 22, 2021