

BEFORE THE SURFACE TRANSPORTATION BOARD

304709

North Coast Railroad Authority –)	ENTERED
Abandonment Exemption –) AB 1305X	Office of Proceedings
In Mendocino, Trinity and Humboldt Counties, CA)	June 6, 2022
		Part of
		Public Record

Friends of the Eel River (FOER) Comment in Support of North Coast Railroad Authority/ Great Redwood Trail Authority (“NCRA/GRTA”) Motion to Reject North Coast Railroad Company (“NCRCo”) Notice of Intent to File an Offer of Financial Assistance

Friends of the Eel River (FOER) is a citizens’ group dedicated to the protection and restoration of northwestern California’s Eel River and its salmon and steelhead fisheries. FOER is keenly concerned by the possibility that the long-defunct North Coast Railroad Authority rail line, which passes for more than seventy miles through the highly unstable inner gorge of the Eel River Canyon, might be taken from the citizens and the state of California and used to build an entirely new set of rail facilities that would dramatically exceed the scale and scope of any previous rail operations in the region, all to export coal from mines in the interior of the US to Asian markets. It is very difficult to exaggerate the potential impacts such an operation would have on the Wild and Scenic Eel River and its

fisheries, which include Chinook and coho salmon, as well as steelhead, all listed as Threatened under the federal Endangered Species Act.

FOER supports the Motion of the NCRA/GRTA to reject the Notice of Intent to file an Offer of Financial Assistance proffered by the North Coast Railroad Company for the reasons stated below. As well, we wish to bring to the Board's attention facts which appear to call into question the NCRCO's credibility.

NCRCO's Notice of Intent to file an Offer of Financial Assistance was filed past the Board's deadline. The Board's deadline for notices of intent was announced as May 31, 2022. NCRCO filed on June 1, 2022. NCRCO has made no showing of "good cause" for its late filing, as required by the STB's previous decisions. As the NCRA/GRTA notes, both counsel for NCRCO had previously appeared in the proceeding before the Board and are well acquainted with its rules and practices. Under the Board's precedents, counsel's failure to show actual good cause for NCRCO's late filing should be the end of this matter.

NCRCO's claim that no party would be prejudiced by allowing it to proceed with an Offer of Financial Assistance is absurd. The NCRA/GRTA's efforts to railbank its right of way are clearly prejudiced by allowing an OFA to proceed in violation of Board rules. As one of several entities seeking to coordinate defense of the NCRA/GRTA right of way against a hostile OFA, FOER confirms that

NCRCO's late filing of its notice of intent has had made it more difficult to communicate accurate information about the status of the proposed railbanking to the dozens of organizations and thousands of concerned citizens actively seeking to participate in the Board's review.

The state and citizens of California have made substantial investments not only toward the creation of a Great Redwood Trail on the rail right of way from Willits north to Humboldt Bay, including many miles of trail already constructed on the NCRA right of way around Humboldt Bay, but also in the Sonoma-Marín Area Rapid Transit (SMART) commuter rail line, which operates on the southern end of the NCRA right of way. Both the NCRA/GRTA and SMART's significant public interests will clearly be harmed by allowing an OFA to proceed.

As well, as the NCRA/GRTA has noted, due to the Board's delays in approving the NCRA/GRTA's railbanking application, the County of Humboldt has been forced to delay implementation of a grant-funded project that would provide critically needed protection for a low-lying segment of US Highway 101 against the highest rate of sea level rise on the West Coast, while also completing a walking and cycling trail between Arcata and Eureka on Humboldt Bay. When grant-funded projects are so delayed, it may not be possible to complete them without securing additional or alternative funding. These are concrete harms to

public interests which will continue if an Offer of Financial Assistance is allowed to go forward in violation of Board rules.

NCRCo's Attempt to Conceal Its Financial Condition. Any Offer of Financial Assistance must demonstrate not only a financial capacity to consummate the first stage of rail line acquisition – purchase of the line as scrap, plus a nominal payment per mile – but also the financial capacity to actually construct and operate the proposed rail operation. In this case, because the NCRA/GRTA line is likely to cost well in excess of \$2 billion to build, such a showing must demonstrate truly substantial actual assets. To date, NCRCo has offered only a claim without evidence that it has \$1.2 billion in backing.

In its late-filed Notice of Intent, NCRCo included as evidence of its financial capacity a copy of a statement from a North Carolina credit union. As the NCRA/GRTA motion explains,

That exhibit is rather strange. It is attributed to Self-Help Credit Union, 3400 Battleground Ave., Greensboro, NC 27410. The only germane words relating to the issue of financial responsibility are the words “North Coast Railroad Company,” a statement date of 04-30-2022, and the words “summary of accounts” followed by an account named “Money Market” with a beginning and ending balance in the \$15,700,000 range. The “transaction details” for “Money Market” appear blacked out in the pdf version. However, when converted to a Word version and printed on a white background, the transaction details show balances in the period at all times less than \$3269.96.

Thus, as the NCRA/GRTA write, “it simply cannot be said that NCRCO has demonstrated with its Exhibit C that it has financial responsibility in the amount it seems to be claiming, much less the \$1.2 billion it previously asserted.” Because NCRCO has failed to provide reliable evidence of its financial responsibility, its Notice of Intent would fail even if timely filed.

As devastating as it is for NCRCO’s claims of financial responsibility, the unredacted Exhibit C shows more than an attempt by the NCRCO to conceal its actual financial condition in an official proceeding. Among the transactions are a payment (labeled “payroll”) in the amount of \$400 to Justin Wight. Justin Wight has been identified in published stories as a “project consultant” to NCRCO involved in meetings and communications with Utah and Wyoming coal interests and persons in California involved in promoting a proposed new train on the NCRA/GRTA right of way to export coal to Asia out of Humboldt Bay. (See Exhibit 1) The payment to Mr. Wight is evidence the credit union statement is a genuine artifact of NCRCO finances, however misleadingly presented.

Even if timely submitted, NCRCO’s Notice of Intent is fatally afflicted by its deliberate concealment of material facts in its financial submission. At a minimum, these facts strongly suggest the NCRCO does not have the financial resources it claims even for the preliminary stage of acquiring the NCRA/GRTA’s assets. As well, they confirm for the record what has been obvious for many months: the

NCRCo is really in the business of moving coal to Asia – a fact of enormous relevance to the Board and public’s evaluation of the potential environmental impacts of any proposed OFA.

Conclusion. Proceedings in AB 1305X and AB 1313 have been inexplicably subject to extended delays. FOER has sought for more than ten years to secure meaningful environmental review and public oversight of the rail right of way California citizens have owned for decades. Our concerns are informed by the very significant impacts caused to the Eel River and its fisheries by construction and operations of the defunct rail line. Those effects would be dwarfed by those entailed in any project that could hope to service many billions of dollars in construction costs. NCRCo’s belated Notice of Intent should be rejected for the reasons stated, and the NCRA/GRTA’s application to railbank the right of way should proceed without further unwarranted delay.

Certificate of Service. I hereby certify service by email attachment on June 6 on all parties of record in AB 1305X as of June 5, 2022.

A handwritten signature in black ink, appearing to read 'Scott Greacen', with a long horizontal line extending to the right.

Scott Greacen
Conservation Director
Friends of the Eel River
California Bar No. 227346

Attachment: Exhibit 1: Articles in the *Salt Lake Tribune* and *Lost Coast Outpost* noting Justin Wight's role in advancing a proposal to export coal from Humboldt Bay using the NCRA/GRTA right of way, with a copy of a Utah Inland Port Authority memo cited in both stories. (Comments not included.)

Exhibit 1

Brian Maffly

Brian Maffly is a reporter covering public lands for The Salt Lake Tribune.

Contact Brian Maffly at brianmaffly@gmail.com

Sep 25, 2021 Published on: [The Salt Lake Tribune](#)

2 min read

Utah port authority memos reveal coal industry ties to California rail controversy

The Utah Inland Port Authority briefly worked behind the scenes to advance a secretive proposal to rehabilitate an unused California railroad for coal.



Francisco Kjolseth | The Salt Lake Tribune Coal is piled up at the Levan transfer facility along Interstate 15--south of Nephi. Utah Community Impact Board awarding a \$50 million loan to four coal-producing counties to build a deep-water port in Oakland, Calif. that would be a shipping point for Utah coal. We want to illustrate Utah's current coal industry chain and points that might have between 1 and 3 million tons of coal moving through them in the future.

Editor's note • This story is available to Salt Lake Tribune subscribers only. Thank you for supporting local journalism.

The [Utah Inland Port Authority](#) worked behind the scenes exploring a secretive proposal to rehabilitate an unused California railroad with the hope of using it to ship Western-mined coal overseas through an out-of-the-way port on the Northern California coast, according to internal documents obtained by The Salt Lake Tribune.

In March, six months before the rail project came to public attention, a Utah port authority staffer named Christopher Mitton participated in a conference call with two coal industry representatives, an administrator from a Northern California tribe and a man named Justin Wight, identified as the “project consultant.” The call’s purpose was to discuss taking over the [North Coast Railroad](#) and develop an export terminal at

Humboldt Bay. The project would have complete, or at least majority, tribal ownership.

According to a memo Mitton wrote summarizing the March 16 call, Wight was seeking up to \$1 billion in loans from the U.S. Department of Transportation to rehabilitate the rail line, which winds through Northern California's Eel River Canyon.

"This program is not a grant program but a loan program that would need to be repaid," the memo said. "The loan is likely contingent on securing long-term contracts as a source of repayment."

The memo doesn't specify which federal loan program, but a probable option is the [Railroad Rehabilitation and Improvement Financing](#) program, overseen by the Transportation Department's Build America Bureau. The North Coast Railroad, however, does not appear on the program's list of active projects.

The industry representatives on the call were [Conrad "CJ" Stewart](#), energy director for the Crow Nation, and Utah Mining Association president Brian Somers. The Crow of southeast Montana holds extensive coal reserves in the Powder River Basin. Joining them on the call was Michelle Vassel, tribal administrator for the [Wiyot, a federally recognized tribe](#) that is indigenous to Humboldt Bay.

The Wiyot Nation is "fully committed to this project" and the Crow Nation is "looking for any new export channel or new use for their mineral resources," according to the memo that Mitton sent to

Flygare, the port authority's chief operating officer.

Vassel did not respond to a request for comment left at the Wiyot tribal offices in California. Stewart did not respond to a voicemail left on his cellphone. Somers could not be reached and contact information for White was not available.

A co-founder of the [National Tribal Energy Association](#) and former member of his tribe's Legislature, Stewart is a leading advocate of coal exports and has spoken out against

Pacific coast states' efforts to block proposed coal-loading port projects, such as the stalled [Millennium Bulk Terminals](#) in Longview, Wash., and the Oakland Bulk and Oversize Terminal on the San Francisco Bay.

"Imagine having a trillion dollars in mineral wealth under your feet and yet your people are starving and destitute before you," he told a Senate committee in 2018. "It's a cruel nightmare that could be avoided if not for the Clean Water Act being weaponized against the Crow Tribal resource economy and the Crow people and culture."

The rail proposal came to light three weeks ago after a shadowy company notified the federal Surface Transportation Board of its intentions to take over the century-old North Coast Railroad, a defunct and dilapidated line running 320 miles through northern California's coastal mountains from the Bay Area to the [Port of Humboldt Bay](#). The company's filing said it has a "thoroughly developed" plan to rehab the line for "high-volume traffic" and has secured \$1.2 billion in financing for a project that aims to export unspecified bulk minerals.

Who exactly is behind the newly formed North Coast Railroad Co. remains a mystery, but available evidence points squarely to the Western coal industry, which has long hoped to expand its seagoing export capacity. Hammered by the nation's flagging appetite for a fossil fuel closely associated with climate change, Utah coal producers hope to increase exports to Japan and economically growing Asian countries that burn coal to generate power. These ambitions have repeatedly been thwarted by local and state political leaders on the West Coast aiming to block coal shipments through their communities and discourage the use of coal elsewhere.

The mystery company's recent filing, known as an "offer of financial assistance," was ostensibly made to block a popular plan to convert the rail right of way into the Great Redwood Trail, which has upset many northern Californians, few more than state Sen. Mike McGuire, a champion of the rails-to-trails project.

This month, he introduced a bill in the California Legislature aimed at blocking the rail

rehabilitation.

“This toxic coal train would run through the heart of so many thriving communities and along the Russian and Eel Rivers, which are the main source of drinking water for nearly 1 million residents,” McGuire said in a statement posted Tuesday. “This dangerous proposal must be stopped.”

But the coal industry’s involvement has been a matter of conjecture thanks to the North Coast Railroad Co.’s complete lack of transparency in its public filings. The Inland Port documents help clarify the roles of Utah, the tribes and the coal industry, although many unanswered questions remain concerning the company: Who is Justin White working for? What is the source of the \$1.2 billion in funding the company claims? Do the Crow and Wiyot tribes control the company? Does it have contracts in place with coal producers?

Another memo Mitton provided his boss in March contained contact information for various officials with the [Humboldt Bay Harbor District](#), whom Mitton apparently reached out to around that time.

The district’s deputy director, Adam Wagschal, told The Tribune that Mitton contacted him asking about the port’s suitability for shipping bulk minerals. In an interview this week, Wagschal said he could not recall whether Mitton mentioned coal or any specific commodity.

The port authority declined to make an official available for an interview.

Speaking through a spokesperson, Flygare said the participation of Mitton, who worked only a few months at the port authority as its “strategic projects manager,” was limited to asking some questions about the Humboldt Bay project.

The port authority was invited to the March meeting to hear about the proposal, according to Flygare. After conducting due diligence, the agency determined it was not

a viable port project and it hasn't been involved since.

"In response to a Tribune reporter who is writing a story that falsely implies the Utah Inland Port Authority is pushing or has ever supported a project to ship coal from Utah to Asia — UIPA has no current or future plans to export coal from Humboldt Bay," said executive director Jack Hedge in an emailed statement. "We looked into it and did not find it to be a project the Port Authority could be involved with."

Few people believe the North Coast Railroad has any chance of ever being restored and put back into service, given the need to rebuild it completely and the difficulty of maintaining the stretch through the slide-prone Eel River Canyon.

Additionally, the Port of Humboldt Bay would require costly upgrades before it could handle the level of freight traffic described by the proponents of the rail project. The harbor entrance itself is prone to regular closures because of river sediments forming sandbars that complicate navigation.

The Army Corps of Engineers dredges the channels every spring to remove the sediments that wash down the Eel River in winter, according to Jennifer Kalt, a local environmentalist who heads the [Humboldt Baykeeper](#).

"There would have to be a massive increase in dredging to create the kinds of depths at the shipping channels and then also to open the entrance year-round," Kalt said. Meanwhile, the facilities on the site, all associated with Humboldt's faded timber industry, are in no shape for handling mass volumes of coal or other bulk mineral commodities.

"There isn't really something anyone calls a port here necessarily. What there is is a lot of dilapidated former mill sites that have docks. Two of them were pulp mills. Some of them were lumber mills, and they're just completely dilapidated and falling apart."

But one remains in fairly good condition and occupies the harbor's deepest water, she

said. It's a privately owned facility called the [Fairhaven Terminal](#), where the water is 38 feet deep and there are five acres of paved storage. A message left for that terminal's owner, Eureka businessman Rob Arkley, was not returned.

The Inland Port memo indicates the bay has existing federal shipping channels that would work for exporting minerals. Wight identified terminals on the north side of Humboldt Bay that could be used for loading ships and are not close to environmentally sensitive areas.

"Both Justin [Wight] and Michelle [Vassel] stated there is strong local support for revitalizing the harbor and port operations," the memo said. "Michelle mentioned she would expect some, but not overwhelming opposition to the project."

Vassel could have hardly been more wrong in this assessment.

"No way, no how are we going to let this happen," said Sen. McGuire in unveiling key additions to his [SB307](#) on Tuesday.

The legislation would ban any state funding from being used to improve the northern half of the rail line for coal shipments north and from being used to build a coal handling terminal at Humboldt Bay.

RELATED STORIES



Jill Flygare <jflygare@utah.gov>

Re: Humboldt Bay

1 message

Jill Flygare <jflygare@utah.gov>

Wed, Mar 17, 2021 at 8:54 AM

To: Chris Mitton <cmitton@utah.gov>

Cc: Jack Hedge <jackhedge@utah.gov>, Ginger Chinn <gchinn@utah.gov>

Thanks Chris

On Tue, Mar 16, 2021 at 3:41 PM Chris Mitton <cmitton@utah.gov> wrote:

All,

Quick wrap-up from the Humboldt Bay call UIPA was asked to participate in this morning:

Attendees:

Brian Somers (Utah Mining Association)
Michelle Vassel (Tribal Administrator - Wiyot Tribe)
CJ Stewart (Energy Director - Crow Nation)
Justin Wight - (Project Consultant)

Key Highlights:

- 1) The Wiyot Nation is "fully committed to this project..."
- 2) The Crow tribe is looking for any new export channel or new use for their mineral resources.
- 3) The terminal at Humboldt Bay and the RR would be Tribal owned, or would have small, non-tribal minority owners.
- 4) Northwestern Pacific Railroad is considered an "open-active" railroad, which makes the rehabilitation of this rail line much easier from a permit perspective. This has not been independently verified at this time (I am looking into it).
 - a) A southern portion of this line has been a freight and passenger service in serving a small area north of San Francisco.
- 5) Justin Wight (project consultant) stated he has had conversations with USDOT regarding funding for the rail rehabilitation, up to \$1 billion. This program is not a grant program but a loan program that would need to be repaid. The loan is likely contingent on securing long-term contracts as a source of repayment.
- 6) There are existing federal navigation channels that can be utilized for the export of minerals and Justin is not concerned about that piece for exporting.
 - a) The terminals identified for use are on the north side of the bay and are "well away from the environmentally sensitive areas."
 - b) Justin did not view this as an area of concern
- 7) Both Justin and Michelle stated there is strong local support for revitalizing the harbor and port operations. Michelle mentioned she would expect some, but not overwhelming opposition to the project.

The in-person meeting will move ahead next week between the tribal officials, local officials, Brian Somers and others.

Please let me know if you have any questions.

Chris Mitton

Utah Inland Port Authority | Strategic Projects Manager
385-977-3451 - Mobile
www.utahinlandport.org

9/15/21, 2:06 PM

State of Utah Mail - Re: Humboldt Bay

—

Jill Flygare

Utah Inland Port Authority | Chief Operating Officer
801.577-7253 m

<https://inlandportauthority.utah.gov/>

<https://mail.google.com/mail/b/ALGkd0yeUFFTIsI-Qggn6P7lrXWCF88v4B06-6zQeDxpja50xbx5/u/0?ik=12622c303b&view=pt&search=all&permthid=thread-f%3...> 2/2

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Consultant in NCRA Rail Takeover Bid Says Project Has Been Misrepresented, But Document Reveals Coal Connections and Wiyot Tribe Involvement

UPDATE, Sept. 29: The day after this story was published, executives from the Wiyot Tribe sent statements regarding the issues discussed in this story. Those statements can be found here (<https://lostcoastoutpost.com/2021/sep/29/coal-does-not-align-our-values-wiyot-tribe-executi/>).

###

Original post:



The former railroad through the Eel River Canyon has been defunct for decades. Sections have fallen into the river along with abandoned rail cars. | Photos courtesy FOER.

PREVIOUSLY: Aiming to Ship Coal Out of Humboldt Bay, Shadowy Corporation Makes Bid to Take Over NCRA Line (<https://lostcoastoutpost.com/2021/sep/2/aiming-ship-coal-out-humboldt-bay-shadowy-corporat/>)

###

Justin Wight, an independent consultant working for the recently formed North Coast Railroad Company, LLC, says the corporation's plans have been misrepresented.

"It's not as it has been made to appear to most people," he told the *Outpost* in a phone interview Monday.

Wight suggested that the company, whose agents and officers remain entirely unknown, may not necessarily intend to ship coal along the long-dilapidated rail line between Humboldt Bay and San Francisco Bay, though neither would he rule out coal as the planned cargo. He said a non-disclosure agreement prevents him from revealing the particulars.



"The reality is that the final business plan hasn't been struck and there are active discussions with literally dozens and dozens of shippers from throughout the western United States," he said. "I'm not at liberty to disclose any more than that."

As previously reported (<https://lostcoastoutpost.com/2021/sep/2/aiming-ship-coal-out-humboldt-bay-shadowy-corporat/>), North Coast Railroad Co., LLC, has filed an Offer of Financial Assistance (OFA) with the Surface Transportation Board in an unexpected bid to take over the 320-mile right-of-way. If successful, the company's gambit would effectively torpedo ongoing plans to develop The Great Redwood Trail (<http://www.thegreatredwoodtrail.org/>) along that route by railbanking the public throughway.

Our conversation with Wight came on the heels of a story in the (<https://www.sltrib.com/news/environment/2021/09/25/utah-port-authority-memos/>) *Salt Lake Tribune* (<https://www.sltrib.com/news/environment/2021/09/25/utah-port-authority-memos/>) that reveals details of a March conference call between government officials in Utah, Wiyot Tribal Administrator Michelle Vassel, two representatives of the coal industry and Wight himself.

An email obtained by the (https://lostcoastoutpost.com/loco-media/loco-media/blog/post/32483/UIPA%2Bmemo_Humboldt%2BBay.pdf) *Tribune* (https://lostcoastoutpost.com/loco-media/loco-media/blog/post/32483/UIPA%2Bmemo_Humboldt%2BBay.pdf) provides a rundown of "key highlights" from that conversation. The message, sent by Chris Mitton, strategic projects manager for the Utah Inland Port Authority (<https://inlandportauthority.utah.gov/>) to Jill Flygare, that agency's chief operating officer, says Wight was seeking up to \$1 billion in loans from the U.S. Department of Transportation in order to rehabilitate the rail line and employ terminals on Humboldt Bay "for the export of minerals."

Atop the email's list of key highlights is this: "The Wiyot Nation is 'fully committed to this project...'"

Vassel previously denied to the *Outpost* that the tribe had received or accepted any proposals related to coal, and U.S. Rep. Jared Huffman said she'd told him the same thing, "unequivocally" denying that the tribe would support this rail line takeover effort.

The email suggests otherwise. "Both Justin [Wight] and Michelle [Vassel] stated there is strong local support for revitalizing the harbor and port operations," it says. "Michelle mentioned she would expect some, but not overwhelming opposition to the project."

Numerous calls and emails to Vassel over the past few weeks have not been returned.

Humboldt County Supervisor Rex Bohn previously told the *Outpost* that several Wiyot Tribal representatives attended a meeting at Shamus T Bones roughly six months ago. The meeting involved project representatives and government officials, including Wight and pro-coal Utah State Senator David Hinkins, Bohn said.

While Vassel has not confirmed the tribe's participation in that meeting, former Wiyot Tribal Chair Cheryl Seidner did so, saying she and other Wiyot members met with Wight and his business partners more than once.

"They were looking for someone with access to a harbor because they were landlocked," Seidner said. "They were also Native American, and of course we'd like to help other individuals, so we said we'd meet."

One of the coal industry representatives who participated in the March conference call was Conrad "CJ" Stewart (<https://webcache.googleusercontent.com/search?q=cache:fjsvM2jRB8EJ:https://usea.org/profile/conrad-cj-stewart+&cd=3&hl=en&ct=clnk&gl=us>), energy director for the Crow Nation, a southern Montana tribe that has collaborated with the Navajo Transitional Energy Company, Inc. (<https://news.bloomberglaw.com/environment-and-energy/mining-tribal-land-weighs-on-crow-family->



as-cost-of-prosperity) on efforts to mine more than a billion tons of coal from the Powder River Basin. The other was Brian Somers, president of the Utah Mining Association.

Hinkins, the Utah senator, told the *Outpost* that representatives of the Crow Tribe invited him to come to Humboldt County to meet with members of the Wiyot Tribe, which was working with the Crow and Navajo interests.

The Utah Inland Port Authority email says, "The Crow tribe is looking for any new export channel or new use for their mineral resources." The Crow Reservation has estimated coal deposits of 17.1 billion tons (https://www.honorearth.org/crow_coal). While domestic coal demand has shrunk in recent years, U.S. coal exports reached a two-year high in June (<https://uscoalexports.org/category/asia/>), fueled largely by an explosion in demand from China, India and Japan.

The main impediment standing between these massive domestic coal supplies and massive demand overseas is pushback in West Coast port communities where residents and politicians have taken a stand against enabling more burning of the climate-warming mineral. This resistance has frustrated both Stewart and Somers, who have spoken out against such efforts.

Somers, for example, told the (<https://www.latimes.com/environment/story/2020-02-26/interior-states-are-using-lawsuits-against-the-west-coast-to-prop-up-the-dying-coal-industry>) *L.A. Times* (<https://www.latimes.com/environment/story/2020-02-26/interior-states-are-using-lawsuits-against-the-west-coast-to-prop-up-the-dying-coal-industry>) last year (<https://www.latimes.com/environment/story/2020-02-26/interior-states-are-using-lawsuits-against-the-west-coast-to-prop-up-the-dying-coal-industry>), "We believe that these coastal states are using their local authorities for land-use planning to essentially block interstate commerce."

Despite this context and the direct involvement of both Stewart and Somers, Wight maintained that coal may not be the motivating factor for NCRCO.

"As is often the case in business development ... you talk to everyone and you try to see what's going to make the most sense for the most places," he said. "There have also been discussions around everything from aggregate [gravel] that could help build the Bay Area to waste [garbage] removal. There have been literally dozens of conversations with dozens of companies for hauling at least 25 different things."

Wight said the interests behind North Coast Railroad Co., LLC, will be made "abundantly" clear sometime in the next week or two. Asked what's happening at that point he said it concerns proceedings with the Surface Transportation Board.

An Aug. 16 filing with that agency (<https://lostcoastoutpost.com/loco-media/loco-media/blog/post/32258/302869.pdf>), submitted by a pair of Chicago lawyers on behalf of NCRCO., said the company is "capitalized to the tune of \$1.2 billion." Is that money from federal loans, as suggested by the Utah Inland Port Authority email? Wight said he's not at liberty to disclose the funding sources but they are "numerous."

The Utah port authority, for its part, appears to have backed out. Flygare told the *Tribune* that after agency officials looked into it they determined the project was not viable, and the UIPA "has no current or future plans to export coal from Humboldt Bay."

Alicia Hamann, executive director of Friends of the Eel River, has spoken out (<https://lostcoastoutpost.com/2021/sep/2/aiming-ship-coal-out-humboldt-bay-shadowy-corporat/>) against the environmental destruction she says would result from attempting to rebuild the North Coast Railroad through the geologically unstable Eel River canyon, especially for the purpose of shipping coal, and she's not convinced by Wight's claim of there being a wide variety of potential cargoes.

"Rebuilding the rail line through the fragile Eel River canyon would cost



billions," she said. "Only coal could possibly generate the volume of shipping you'd need to finance that bill, and only then in really high-volume scenarios."

The North Coast Railroad Authority (NCRA), the public agency that currently owns the right-of-way in question, estimates the cost of restoring the line at \$2.4 billion, with hundreds of millions more needed for maintenance of what has been described as (<https://www.northcoastjournal.com/052903/cover0529.html>) the most expensive stretch of railway in the United States to maintain. Billions more would be required to upgrade Humboldt Bay Harbor infrastructure, according to NCRA Executive Director Mitch Stogner.

The email obtained by the *Tribune* says Wight assured Utah officials that shipping wouldn't be a problem:

There are existing federal navigation channels that can be utilized for the export of minerals and Justin [Wight] is not concerned about that piece for exporting. The terminals identified for use are on the north side of the bay and are "well away from the environmentally sensitive areas." Justin did not view this as an area of concern.

Jennifer Kalt, executive director of Humboldt Baykeeper, scoffed at that quote.

"There's no such thing as anywhere on the shoreline of Humboldt Bay that's away from environmentally sensitive areas," she said. "The devastation that a project like this would bring to the bay is just mind-boggling to even consider."

Wight said he was misquoted. "Let me be very clear about one thing: that quote is misattributed," he said. "That may have been something that was discussed by someone; it's definitely not something I ever said."

He also argued that the project has been misrepresented in media reports to date.

"I think it's unfortunate that the narrative has kind of been shaped the way it has thus far because some of the people involved in this project have won literally international as well as national environmental and sustainability awards," he said. "In fact, one of the goals of this project is actually to facilitate the cleanup of the Eel River and its restoration, so it's rather ironic that there are people who think this is going to be a nightmare for the river"

Hamann isn't buying Wight's statement about river restoration. "Claiming that [this project] would somehow benefit the Eel River is as obvious and absurd a lie as the claim that we can burn that coal without cooking the planet," she said.

The NCRA board of directors spent two decades trying to drum up financial backing and commercial shipping interests willing to restore the crumbled railway through the Eel River canyon, and the agency's attorney, Charles Montagne, is skeptical of this new venture.

"It would be extraordinarily unusual for a company engaged in as much discussion as [Wight] claims to have engaged in without talking at any point with anyone associated with NCRA," Montagne said. "No one from the NCRCo. camp has been in touch with my client or given any information to the STB to corroborate anything that this man is saying."

State Senator Mike McGuire, who has led the effort to develop the Great Redwood Trail, last week introduced legislation (<https://lostcoastoutpost.com/2021/sep/21/sen-mike-mcguire-introduces-legislation-meant-slow/>) explicitly designed to thwart this rail takeover effort. Senate Bill 307 would block any state funding from going to rebuilding the rail line or building an export coal terminal at the Port of Humboldt Bay.

"The evidence is overwhelming — this secretive company is trying to be clever by hiding behind an anonymous LLC," McGuire said in comments

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provided to the *Outpost*. "It's obvious they are tied to Big Coal, and it's obvious they are trying to pull a fast one over on the North Coast. Let me be clear: It's not going to work. No way, no how."

McGuire called the company's efforts to date "incredibly offensive" and challenged backers to reveal themselves.

"If their proposal is so good, come forward and talk directly to the community," he said. "Stop lurking in the shadows. Show us your plan. Face the people you propose to do business with."

Those people would need to include the board of commissioners of the Humboldt Bay Harbor District, which is already preparing to take action to block their plan. Harbor Commissioner Stephen Kullmann said he's not sure if the board will pass an ordinance or take some other approach, but he's working on something that will have "as much teeth as possible," he said.

Kullmann said the mysterious project backers "seem to have the idea that they can do it without any local buy-in, that they can force their will through. I highly doubt they'll be able to do that."

McGuire reiterated his determination to block the project. "We will fight this at every level and make damn sure this ridiculous idea goes away," he said.



Another washed-out section of rail infrastructure in the Eel River Canyon.

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