

Policy for Capital Projects Implemented by Others within the Santa Cruz Branch Rail Corridor Right-of-Way

Adopted June 4, 2020 by Resolution 116-19

Background

The Regional Transportation Commission (RTC) purchased the Santa Cruz Branch Rail Line (SCBRL) right-of-way to preserve it as a transportation corridor. The use of the corridor is as follows:

- Freight and recreational rail service
- Future High Capacity Public Transit
- Multiuse trail to be constructed in phases alongside the track

The Surface Transportation Board (STB) designates the RTC selected rail operator as the common carrier for freight service on the SCBRL, as long as the operator meets the requirements of the STB. The selected rail operator owns an easement over all tracks on the SCBRL right-of-way for freight purposes. The RTC enters into an administration, coordination and license (AC&L) agreement, as long as meets requirements of the STB, with the selected rail operator. That agreement outlines the responsibilities of the operator and provides the operator with a license to operate recreational passenger rail service on the SCBRL. There are a number of operating agreements assigned to the rail operator for the rail line including at-grade railroad crossing agreements, industry track agreements and a trackage rights agreement with Santa Cruz Big Trees and Pacific Railway. Rail operations on the SCBRL are governed and inspected by the Federal Railroad Administration (FRA) and the California Public Utilities Commission (CPUC) to help ensure safety.

As capital projects are developed that are located within the SCBRL right-of-way by entities other than the RTC, those projects must meet the requirements of the RTC and the railroad operator during preconstruction, construction, and maintenance. This policy applies to installation or upgrades to utility crossings or longitudinal encroachments, grade crossings, coastal rail trail, or other projects requiring permanent or temporary access to the right-of-way for construction and/or maintenance by a local jurisdiction, utility owner, or private entity.

1. General Requirements

1.1 Responsibilities

A Right of Entry (ROE) agreement shall be obtained by the project owner from the RTC prior to entering the SCBRL right-of-way, in accordance with the Policy for leases, licenses, rights of entry and encroachments for the Santa Cruz Branch Rail Line right-of-way. A ROE agreement may also be required from the railroad operator. Utility owners must obtain a utility license agreement for any facility that crosses or enters the SCBRL right of way, and public entities or agencies must obtain a special maintenance agreement or lease agreement for facilities that cross or enter the SCBRL right of way in accordance with the Policy for leases, licenses, rights of entry and encroachments for the Santa Cruz Branch Rail Line right of way. If at any time upon completion of the project, the project owner must access the area within the SCBRL right-of- way for maintenance or repairs, a new ROE agreement is required.

Fees associated with the required agreements, including RTC's oversight of projects within the SCBRL right of way, shall be paid in accordance with the RTC's fee schedule. The full cost of the project shall be borne by the project owner, including investigatory and/or remedial action required or ordered for cleanup of any contamination of the premises. This includes costs associated with oversight of a project by the County Environmental Health Services (EHS) Department. The project owner shall indemnify and hold the RTC, its agents, employees, and the Premises, harmless from any and all costs, claims, expenses, penalties and attorney's fees arising out of any matter related to the project. All other regulatory permits required by the project are to be obtained by the project owner.

1.2 Required Training

Individuals accessing the SCBRL right-of-way who will be performing roadway worker duties¹ within 25 feet of track centerline are required to

¹ Roadway Worker duties include inspection, construction, maintenance or repair of track, bridges, roadway, signal and communication systems, electric traction systems, roadway facilities or roadway maintenance machinery on or near track or with the potential of fouling a track, and other personnel directly involved with their protection.

complete Roadway Worker Protection Training, renewed on an annual basis, in accordance with the FRA 243 regulation.

Individuals accessing the SCBRL right-of-way during any phase of a project who will be performing *any other work* within 25 feet of track centerline are required to complete the RTC's Basic Safety Training for Railroad Workers, renewed on an annual basis. This requirement does not apply to access of the right of way via coastal rail trail or where a physical barrier (i.e. fence) is present within 25 feet of rail.

1.3 Standards

The American Railway Engineering and Maintenance-of-way Association (AREMA) standards include the minimum requirements for capital projects developed that are located within the SCBRL right-of-way.

2. Preconstruction Activities

2.1 Right of Entry Agreement for Preconstruction

A Right of Entry (ROE) Agreement is required for the project owner and their consultants, contractors, or agents to access the right-of-way for the purposes of preconstruction surveys, soil testing, and investigations necessary to achieve environmental clearance and prepare the construction documents. The term of the ROE agreement shall cover the period of time in which access to the right-of-way is needed (environmental, preliminary engineering, and final design) for the project preconstruction activities. Once a ROE from the RTC is obtained, the project owner shall request a ROE from the railroad operator and meet their requirements prior to commencing field activities.

2.2 Review and Approval of Work Plans

Prior to the ROE agreement being executed and prior to mobilizing field activities that require heavy equipment or ground disturbance (example – geotechnical testing) review and approval of the work plan by the RTC engineer or designee is required. The work plan shall be submitted to the RTC no less than 30 days prior to the planned mobilization and shall include the purpose, proposed access routes, location, duration, and proposed schedule of the work.

2.3 Review of Plans and Specifications

Preliminary Engineering plans and environmental documentation for the project shall be submitted to the RTC for review a minimum of 60 calendar days prior to circulation of the draft environmental document. The RTC engineer or designee shall review and provide comments within 30 calendar days of receipt.

Construction documents shall be provided to the RTC for review at each milestone (example – 65%, 95%, final), as applicable. The RTC engineer or designee shall review and provide comments within 30 calendar days of receipt. If the project scope includes structural work, review by a structural engineer from the RTC's on-call engineering list is required.

2.4 Records

At the RTC's request, georeferenced cad files shall be exported to GIS shapefile format and provided to the RTC by the project owner or their consultant at no cost to the RTC. Right of way boundary surveys are required for all capital projects within the Santa Cruz Branch Rail Corridor right of way. Surveys shall be recorded with the County of Santa Cruz survey office.

3. Construction Activities

3.1 Approval of Plans and Specifications

Authorization for the Executive Director to accept the construction documents by the RTC is required prior to advertisement. The required agreements, including but not limited to the ROE for construction, utility license agreements, and maintenance agreements, must be in place by the project owner prior to advertisement of the project.

3.2 Right of Entry for Construction

A Right of Entry (ROE) agreement is required for the project owner, which will cover all entities requiring entry to the SCBRL right of way for the purposes of construction. The term of the agreement shall cover the construction duration of the project. Once a ROE agreement from the RTC is obtained, the project owner shall request a ROE from the railroad operator and meet their requirements prior to commencing construction activities.

3.3 Construction Oversight and Inspections

The RTC engineer or designee shall conduct a pre-construction inspection documenting the existing conditions of the site prior to construction commencing. All construction projects shall require a construction observer or inspector be onsite throughout construction to monitor and document the construction progress and to ensure all agreement terms and approved construction methodology is adhered to. Special inspections by a structural engineer are required if the scope of the project includes structure work.

4. Post-Construction Activities

The RTC or its designee shall conduct a post-construction inspection documenting conditions of the site. Requests to the project owner for corrective action shall be made by the RTC engineer in responsible charge or designee within 14 calendar days of post-construction inspection.

5. Maintenance by Others

A special Maintenance agreement between the RTC and the implementing public agency is required for public roads, encroachments, trails and related facilities permanently installed within the SCBRL right of way, which defines responsibilities of the project owner. Effort should be made during the pre-construction phase to limit the long-term maintenance liability of the project improvements and surrounding corridor by both entities. Maintenance agreements shall be executed prior to the advertisement of the construction contract.

For all other projects such as utilities, maintenance provisions are spelled out in the license agreement.

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