

SHUTE MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

AMY J. BRICKER
Attorney
Bricker@smwlaw.com

ENTERED
Office of Proceedings
September 15, 2021
Part of
Public Record

September 15, 2021

Via E-Filing

Ms. Cynthia Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street SW
Washington, DC 20423

Re: North Coast Railroad Authority — Abandonment Exemption — in Mendocino, Trinity, and Humboldt Counties, CA -- AB 1305X

Dear Ms. Brown:

Our firm represents Friends of the Eel River (FOER) in the above referenced proceeding and respectfully submits the attached comment letter from FOER's Conservation Director Scott Greacen regarding the Surface Transportation Board's Decision issued August 25, 2021 (served August 26, 2021) in the above referenced proceeding, which issued a comment deadline of September 15, 2021 and denied NCRA's request to lift the abeyance and stay orders served on June 9, 2021, and June 11, 2021. This cover letter and the attachment will be served on all listed parties in the proceeding.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Amy J. Bricker

Attachment

cc: Charles Montage, Counsel for NCRA
Party Service List for AB 1305X



FRIENDS OF THE EEL RIVER

Working for the recovery of our Wild & Scenic River, its fisheries and communities.

Tuesday, September 14, 2021

Ms. Cynthia Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street SW
Washington, DC 20423

filed electronically

RE: North Coast Railroad Authority —Abandonment Exemption— In Mendocino, Trinity, and Humboldt Counties, California AB 1305X

Comments on Surface Transportation Board Decision of Aug 25, 2021

Dear Ms. Brown,

The North Coast Railroad Authority is seeking to railbank the former Northwestern Pacific Rail line from Willits north to Humboldt Bay. In its August 25 decision in the above referenced action (“Decision”), the Board declined to lift the June 9 abeyance and June 11 stay orders that have halted the railbanking process, pending its review of the status of two terminal segments of the rail line.

With respect both to the 6.2 miles of the former Arcata & Mad River line and to the approximately 2.3 miles of track on the Samoa peninsula on which the Board has requested public comment, Friends of the Eel River is disappointed by the failure to recognize the fundamental irrelevance of the stated question “whether abandonment of the Line would isolate a segment of track from the interstate rail network, leaving a ‘stranded segment’” Decision at p. 3.

The rail line has not operated north of Willits in more than two decades. Neither of the segments in question can be accessed or used for any kind of rail operations. This is both because the main line through the Eel River Canyon is obstructed by landslides, tunnel failures, and washouts, but even more because the segments themselves are in catastrophic disrepair. They are in such disrepair because they long ago ceased to be economically useful.

If the Board determines the segments in question lie within its jurisdiction, then it should include them in the railbanking process, and they will remain part of the right of way. If the Board determines either or both segment to be outside its jurisdiction, the segment in question will be determined to have been abandoned and revert to underlying

HUMBOLDT OFFICE
707.798.6345 • foer@eelriver.org
PO Box 4945, Arcata, CA 95518



ownership. In no case will there be any possible danger of a demand for rail service to any 'stranded segment' going unmet.

And in no case will the Board's determination of its jurisdiction with respect to either of these two terminal segments have any bearing on its decision how to proceed with the NCRA's application to railbank the line from Willits north to Humboldt Bay. Thus, there is no logical reason to further delay the railbanking process. Friends of the Eel River respectfully requests the Board set a timeline to complete the present jurisdictional inquiry and the railbanking process as a whole.

We note as well that the Board has received notice that at least two sets of interests claim to wish to propose an Offer of Financial Assistance for the NCRA line.

We understand Mendocino Railway's putative Offer of Financial Assistance to be directed to its hopes to carry rock from approximately Dos Rios to Fort Bragg on the coast via its existing line from Willits to Fort Bragg. As we explained in our July 29 letter, this is a facially ridiculous proposal. Mendocino Railway has been unable to open a single blocked tunnel on the Willits to Fort Bragg line for many years. The supply of rock available at Dos Rios is already being hauled by relatively few trucks, suggesting volumes would fall far short of those necessary to support the capital and maintenance costs of even the relatively short stretch of rail line from Willits to Dos Rios.

Meanwhile, we understand the Offer of Financial Assistance which "North Coast Railroad Company L.L.C." claims to be planning to put forward to be a plan to ship coal to Asia out of Humboldt Bay. While this proposal may appear more serious than Mendocino Railway's, it is in fact even more absurd.

The NCRA's \$2.4 billion estimate of reconstruction costs through the Eel River Canyon is extremely conservative. In one of the most geologically active landscapes on earth, the rail line traverses the most active portion, the river's inner gorge. When the Southern Pacific was running redwood – a relatively light load – this stretch of line was the most expensive to maintain in the entire U.S. The tracks constantly had to be cleared, shored up, and rebuilt. The price tag to rebuild the line to modern freight standards would be very high, but the costs of keeping the line open for "high volume" regular freight service would be truly astronomical.

As we see from the steady incidence of accidents involving coal trains, even modern standards don't make coal trains entirely safe. The Eel River's salmon and steelhead survived the worst we threw at them during the 20th century, but their Threatened listing under the federal Endangered Species Act scarcely reflects the peril they now face. With California under siege from the consequences of a climate warmed by the fossil fuels we burned in the 20th century, we have something in common with our fish. A coal train running down the Eel River is the very last thing they – and we – need.

We encourage the Board to dispense with the delays and move forward with the railbanking process. There is enormous public support for the NCRA's railbanking proposal

and for the proposed Great Redwood Trail. But neither the North Coast public nor the Eel River Canyon's geology will support the unprecedented levels of freight traffic that would be required to finance reconstruction and maintenance of the rail line from Willits to Humboldt Bay under present conditions.

Sincerely,

/s/

Scott Greacen

Conservation Director

1416650.3