



SIERRA RAILROAD COMPANY

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December 9, 2021

Chair Kelly Long
Ventura County Transportation Commission
751 E. Daily Dr. Ste 420
Camarillo, CA 93010

Via email: kelly.long@ventura.org

Re: Proposed Agreement between the Ventura County Transportation Commission and Sierra Northern Railway

Dear Chair Long,

I'm writing to address concerns recently expressed by some members of the Ventura County Transportation Commission ("VCTC") stemming from a December 1, 2021 SFGate article that discussed certain complaints by the City of Fort Bragg (the "City") about a pending rail project by our sister company, Mendocino Railway.

I would first like to note that the proposed VCTC lease agreement is with my company, Sierra Northern Railway, not with Mendocino Railway. Sierra Northern Railway is not involved in the dispute with the City.

I would also like to note that the article, as well as other public comments the City's Council, make it clear that the City's complaints have nothing to do with Mendocino Railway's rail operations, operations that continue to be praised by the City. The focus of the conflict seems solely to be frustration that Georgia-Pacific agreed to sell its former mill site to Mendocino Railway instead of to the City. Though the City's anger seems really to be with Georgia Pacific – with the City's Vice-Mayor noting that, "We got played by Georgia-Pacific" – the City seems not to have any effective recourse against Georgia-Pacific and has thus chosen to take its wrath out on Mendocino Railway by making claims as to Mendocino Railway that the I believe the City knows to be false.

As I understand it, two concerns have been raised related to the article: (1) that Sierra Northern Railway might someday choose to use eminent domain to acquire property adjacent to the Santa Paula Branch Line, and (2) that railroads are somehow exempt from regulation and can do what they will. I will address each in turn.

1. Eminent Domain

Sierra Northern Railway has already agreed to the VCTC's language that would prohibit us from using eminent domain in Ventura County. While we believe this language to be overly-broad, we have agreed to it in an effort to demonstrate that we have no interest in pursuing eminent domain related to this lease. Nor did we, prior to these concerns being raised, even contemplate the use of eminent domain related to this lease.

While I believe Mendocino Railway filed an eminent domain action as to the mill site, it's my understanding that it only did so after the City interfered with its negotiated purchase of the property from Georgia-Pacific – a transaction the City apparently initially supported. At the end of the day, it's my understanding that Georgia-Pacific offered to sell the mill site to Mendocino Railway under either a regular purchase agreement or a settlement of the eminent domain action but that settlement was the option the parties pursued. I do not believe the situation in Fort Bragg could be repeated in Ventura County.

2. Railroad Regulation

The City's claims that railroads are exempt from regulation are patently false. They are also claims I believe the City knows to be false as I believe the City is aware of the many regulations that railroads are required to follow. I also believe the City is aware of many times that Mendocino Railway has voluntarily complied with the City's requests and preferences, even when not required to do so. Until this current dispute, I do not believe Mendocino Railway and the City had any significant disagreements over almost two decades of side-by-side operations.

As your counsel may have advised you, the United States Surface Transportation Board exercises general jurisdiction over the operation and regulation of railroads, meaning that railroads are mostly subject to federal regulation rather than state or local regulation. But this federal regulation only applies to a railroad's railroad operations; non-railroad operations are subject to state and local regulation. But even federal regulation is nothing to scoff at: railroads are subject to a lengthy list of regulations and are overseen by numerous federal agencies including the United States Department of Transportation, the Surface Transportation Board, the Federal Railroad Administration, the Environmental Protection Agency, etc. And even their railroad operations are also subject to certain state regulation, such as regulation by Public Utilities Commissions, Departments of Toxic Substance Control, etc.

We do our best to abide by all applicable regulations, both as to our railroad operations and our non-railroad operations. Even when local regulation is preempted by federal law, we invite local regulators to visit our facilities, conduct inspections, and offer suggestions and advice which we do our best to follow to the extent we can. It's in our best interest to get along with the communities in which we operate, and the same is true of Mendocino Railway.

The City's claim that Mendocino Railway (or by extension any other railroad) is exempt from environmental law is also patently false. I believe the City is well aware that Mendocino Railway has since purchasing the California Western Railroad out of bankruptcy in 2004 worked closely with both the City and the California Department of Toxic Substances Control to remediate pre-existing contamination that was on the property long before Mendocino Railway purchased it. I also believe the City is well aware that Mendocino Railway also agreed to complete remediation of the northern portion of the mill site when it purchased that portion of the property – with the City's blessing – in 2019. And I believe the City is also aware that Mendocino Railway has now taken on that same remediation obligation as to the southern portion of the mill site. Mendocino

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Railway has done this despite all of the relevant contamination predating Mendocino Railway's purchase of these properties.

I admit I am disappointed that the City's patently false claims as to Mendocino Railway are not only succeeding in interfering with Mendocino Railway's business dealings but also in those of Sierra Northern Railway. We have spent the past six months maintaining the VCTC's line without any concerns or complaints. And – as we think your staff will attest – we have agreed to a significant number of lease terms that we feel are not to our benefit, all in an effort to be a good partner to the VCTC and to get this agreement completed. I do not know what more we could do to demonstrate our good intentions and good faith.

If any member of the VCTC has any additional questions, or wishes more information, please do not hesitate to let me know. But we are prepared to do our best to improve the VCTC's railroad line with freight, passenger and film work, and to make the line a vibrant and constructive part of the community, providing local jobs, services, and revenue. I hope the VCTC will approve our proposed lease so that we can start doing just that.

Sincerely,



Kennan H. Beard III
President

Cc: Roxanna Ibarra, Clerk of the Commission, via email: ribarra@goventura.org