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February 28, 2022

## VIA E-MAIL AND CERTIFIED MAIL

Louise Warren  
Chief Counsel  
California Coastal Commission  
455 Market Street, Suite 300  
San Francisco, CA 94105  
E-mail: Louise.Warren@coastal.ca.gov

Dear Ms. Warren:

As you are aware, Mendocino Railway has applied for a Railroad Rehabilitation & Improvement Financing Express (“RRIF Express”) loan with the Department of Transportation (“DOT”) Build America Bureau (“BAB”). On February 8, 2022, the Federal Railroad Administration (“FRA”) provided notice that Mendocino Railway’s Categorical Exclusion worksheet was approved by the FRA<sup>1</sup> and that the agency’s National Environmental Policy Act (“NEPA”) review was complete. As part of the NEPA process, the FRA also reviewed and commented on Mendocino Railway’s Coastal Consistency Determination, attached herein for your agency’s review.<sup>2</sup> FRA concurrently directed Mendocino Railway to consult with the California Coastal Commission concerning the narrative that comprises Attachment 2 prior to commencing construction of certain work. Specifically, MR was directed to complete a Federal Consistency Determination review with the California Coastal Commission prior to proceeding with any work to be done at Mendocino Railway’s Fort Bragg, California Mill site. I am writing to request that your agency’s Coastal Consistency Determination commence immediately. I understand that the process takes 60-75 days.

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<sup>1</sup> See Attachment 1 – Mendocino Railway Signed Categorical Exclusion Worksheet

<sup>2</sup> See Attachment 2 - Mendocino Railway’s Coastal Consistency Determination

**BAKER & MILLER PLLC**

Chief Counsel Louise Warren

February 28, 2022

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Should you need any further information or should have any questions concerning this Coastal Consistency Determination, please contact me by telephone at (202) 663-7831 or by e-mail at [czorbaugh@bakerandmiller.com](mailto:czorbaugh@bakerandmiller.com). I look forward to working with you to complete this process.

Sincerely,



Crystal M. Zorbaugh

Enclosure

cc : Robert J. Pinoli (Mendocino Railway)

# Attachment 1

FRA Categorical Exclusion Worksheet

Expiration 1/31/2024

OMB No. 2130-0615

Public reporting burden for this information collection is estimated to average 156 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. According to the Paperwork Reduction Act of 1995, a federal agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The valid OMB control number for this information collection is 2130-0615. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing this burden to: Information Collection Officer, Federal Railroad Administration, 1200 New Jersey Ave., S.E., Washington D.C. 20590.

**Federal Railroad Administration (FRA)  
CATEGORICAL EXCLUSION WORKSHEET**

***For Agency Use: Categorical Exclusion Signature Approval***

***Date of Class of Action Determined by FRA: October 28, 2021***

***Date Completed Document was Received by FRA: Version 1 – August 10, 2021; Version 2 – September 20, 2021; Version 3 – October 26, 2021; Version 4 – January 4, 2022***

*Reviewed By: Kaitlyn Rimol*

*Date: 1/26/2022*

***Concurrence by Approving Official:*** ANDREA ELIZABETH  
MARTIN

Digitally signed by ANDREA  
ELIZABETH MARTIN  
Date: 2022.02.01 08:55:18 -05'00'

***Date:***

***For Agency Use: Section 4(f) Evaluation***

Will the Project result in the use of a resource protected by 49 U.S.C. §303 [Section 4(f)] of the Department of Transportation Act of 1966? *If answer 'YES,' please include Section 4(f) documentation, and coordination letters.*

YES

NO

***For Agency Use: FRA Required Mitigation***

Does FRA require additional mitigation for this Project? *If answer 'YES,' please indicate additional mitigation in Section V below.*

YES

NO

**Federal Railroad Administration (FRA)  
CATEGORICAL EXCLUSION WORKSHEET**

The purpose of this worksheet is to assist Project Sponsors in gathering and organizing materials for environmental analysis required under the National Environmental Policy Act (NEPA), particularly for projects that may qualify as Categorical Exclusions (CE). CEs are categories of actions (i.e. types of projects) that the FRA has determined, based on its experience, typically do not individually or cumulatively have a significant effect on the human environment and which generally do not require the preparation of either an environmental impact statement (EIS) or an environmental assessment (EA). Decisions to prepare EAs and EISs are made by FRA.

The Project sponsor is responsible for providing FRA with a sufficient level of documentation and analysis to help inform FRA's determination that a CE is the appropriate NEPA class of action. Documentation and analysis may include background research, results of record searches, field investigations, field surveys, and any past planning or studies.

**Submission of the worksheet by itself does not meet NEPA requirements. FRA must concur in writing with the CE recommendation for NEPA requirements to be met.**

Instructions for completing this CE worksheet are available on the FRA website at: <https://www.fra.dot.gov/Page/P0550>. Please complete and submit the completed form in **MS Word** electronic format.

Submit the following documents along with this worksheet:

1. Map(s) or diagram(s) of the Project area that identify locations of critical resource areas, wetlands, potential historic sites, or sensitive noise receptors such as schools, hospitals, and residences.
2. Map(s) or diagram(s) of the proposed modifications to existing railways, roadways, and parking facilities.
3. Copies of all agency correspondence particularly with permitting agencies.
4. Representative photographs of the Project area.
5. Any technical memoranda or report(s) developed to support this CE worksheet.

**I. PROJECT DESCRIPTION**

<b>Project Sponsor Name</b> Mendocino Railway ("MR")	<b>Date Submitted to Build America Bureau/FRA</b> 08/10/21	<b>FRA Funding Program or other FRA Action Triggering NEPA (Unfunded)</b> RRIF Express
<b>Project Sponsor Contact</b> Robert Jason Pinoli	<b>Project Sponsor Phone</b> (707) 964-6371	<b>Project Sponsor E-mail address</b> <a href="mailto:rjpinoli@sierrarailroad.com">rjpinoli@sierrarailroad.com</a>
<b>Proposed Project Title (verify with FRA Regional Manager if part of a grant award, list grant award number)</b> Project to Revitalize the California Western Railroad/Skunk Train		
<b>Location (Include Street Address, City or Township, County, and State)</b> City of Fort Bragg, CA, and Mendocino County, CA		

<b>FRA NEPA Contact</b> Kait Rimol	<b>FRA NEPA Contact</b> (617) 494-3648	<b>FRA NEPA Contact E-mail address</b> Kaitlyn.rimol@dot.gov
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**Description of Project:**

Fully describe the Project. The description should focus on Project elements that may be of environmental concern, such as: *widening an embankment to stabilize roadbed; repairing or replacing bridge pier foundations, extending culverts, adding rip-rap in a waterway; earthwork and altering natural (existing) drainage patterns and creating a new water discharge; contaminated water needing treatment; building a new or adding on to a shop building; fueling or collection of fuel or oil and contaminated water; building or extending a siding; and building or adding on to a yard. Where applicable fully describe the operational characteristics of the facility to be improved by the Project and any anticipated operational changes that may result.*

Mendocino Railway's ("MR") Project to Revitalize the California Western Railroad/Skunk Train includes improving track, bridges, and other infrastructure, and purchasing rolling stock. More specifically, MR is looking to complete the following activities (collectively referred to as "the Project"):

- replace 32,098 ties in four blocks along MR's entire 40-mile rail line (referred to herein as "Line"), which extends from Fort Bragg, CA to Willits, CA;
- replace 2,132 sticks of rail across four blocks;
- rebuild one mile of track to renew freight and passenger rail at the Mill Site, a former lumber mill site which once had an extensive rail yard;
- undertake approximately \$21,491,071 million in related track work and right-of-way improvements, including the construction of new sidings within the existing right-of-way ("ROW"), addition or expansion of walkways for maintenance-of-way ("MOW") crews, grading, addition of electrical power utilities to the ROW, and installation of new security fencing and cameras;
- repairs to 50 to 60 structurally impaired sets (replacement of non-original materials) and modernization to other sets (non-original materials) in partially collapsed Tunnel #1 at Milepost 3.52; the tunnel links Fort Bragg, CA, which is located on a remote section of the California coast, with difficult roads, to Willits, CA, a town 40 miles inland to the east;
- make small fixes to improve 27 bridges (see attached bridge list for locations and scope of repairs at each bridge); and
- acquire rolling stock

Some of the repairs to Tunnel #1 include but are not limited to the following: excavating the west portal (including exposing and shorting Tunnel #1's entrance on the western end); including temporary erosion control; geotechnical sampling; applying temporary tunnel safety procedures; temporary shoring install (includes temporary shoring to secure Tunnel #1 in order to perform the wall treatment); perform soil nailing (soil nails average 14' long and 4 center) throughout Tunnel #1; applying Shotcrete; rebuilding the entrance/backfill grading; and erosion control of the landscape. No tunnel work will be performed outside Tunnel #1. See attached tunnel construction and stabilization plans.

Throughout the Project, access to perform the work will be obtained along the right-of-way, and no new access roads will be required to perform the work.

Work will be performed in the following locations (see attached maps):

- Willits Block Track Improvement: 7.4 miles of track between Willits (milepost 40) and Headwaters (milepost 32.6)
- Noyo Canyon Block Track Improvement: 29.1 miles of track between Glen Blair Junction (milepost 3.5) and Headwaters (milepost 32.6)
- Fort Bragg Block Track Improvement: 3.5 miles of track between Fort Bragg (milepost 0.0) and Glen Blair Junction (milepost 3.5)
- Mill Site Track Rebuilding: Track Construction of 1 mile on 420-acre parcel between the Pacific Ocean and downtown Fort Bragg, CA.

See also the attached scope of work document for additional details on proposed project elements.

**Purpose and Need of Project:**

The objective of the Project is to reopen the Line to freight and passenger traffic by repairing Tunnel #1 and rehabilitate and renew the entire Line. If these repairs are not performed, the future of rail transportation in the very rural region is in jeopardy. The collapse of Tunnel #1 severed the Line, prevented MR from renewing freight services, significantly reduced passenger offerings, and caused the region's fragile economy to experience some setbacks. Further setbacks in 2020 related to COVID-19, has completely fractured the region's economy.

The railroad's freight and passenger offerings have historically been the economic engine for the region. According to Mendocino County, the "Skunk Train" is the top commercial tourist attraction in Mendocino County, carrying about 60,000 passengers per year. On the freight side, the Project will ensure shippers and industries, including the City (MSW), NCBC, Lyme Redwood Forest Company, FloBeds, and those in the process of establishing operations at the GP Site, which as stated previously is being developed for 400 acres industrial and mixed-use purposes, that safe and viable rail service in place service needs. In its current condition, the severed Line, directly and indirectly, threatens economic growth in the region. Reopening the entire 40-mile Line will allow freight and passengers to be transported from Milepost 0 (at the city of Fort Bragg, California) to Milepost 40 (at Willits, California) and remove traffic from the region's fragile and challenging mountainous roads. In sum, the Project seeks to address transportation challenges related to critical infrastructure, which has and will help sustain and flourish economic growth in the region.

II. **FRA CATEGORICAL EXCLUSION**

Please list the CEs below that the Project best fits within.

FRA CEs are found at: <https://www.fra.dot.gov/Page/P0550>.

(9) Maintenance or repair of existing railroad facilities, where such activities do not change the existing character of the facility, including equipment; track and bridge structures; electrification, communication, signaling, or security facilities; stations; tunnels; maintenance-of-way and maintenance-of-equipment bases.

(12) Minor rail line additions, including construction of side tracks, passing tracks, crossovers, short connections between existing rail lines, and new tracks within existing rail yards or right-of-way, provided that such additions are not inconsistent with existing zoning, do not involve acquisition of a significant amount of right-of-way, and do not significantly alter the traffic density characteristics of the existing rail lines or rail facilities.

(14) Research, development, or demonstration activities on existing railroad lines or facilities, such as advances in signal communication or train control systems, equipment, or track, provided that such activities do not require the acquisition of a significant amount of right-of-way and do not significantly alter the traffic density characteristics of the existing rail line or facility.

(18) Acquisition (including purchase or lease), rehabilitation, transfer, or maintenance of vehicles or equipment, including locomotives, passenger coaches, freight cars, trainsets, and construction, maintenance or inspection equipment, that does not significantly alter the traffic density characteristics of an existing rail line.

(19) Installation, repair, and replacement of equipment and small structures designed to promote transportation safety, security, accessibility, communication, or operational efficiency that take place predominantly within the existing right-of-way and do not result in a major change in traffic density on the existing rail line or facility, such as the installation, repair, or replacement of surface treatments or pavement markings, small passenger shelters, passenger amenities, benches, signage, sidewalks or trails, equipment enclosures, and fencing, railroad warning devices, train control systems, signalization, electric traction equipment and structures, electronics, photonics, and communications systems and equipment, equipment mounts, towers and structures, information processing equipment, and security equipment, including surveillance and detection cameras.

(22) Track and track structure maintenance and improvements when carried out predominantly within the existing right-of-way that do not cause a substantial increase in rail traffic beyond existing or historic levels, such as stabilizing embankments, installing or reinstalling track, re-grading, replacing rail, ties, slabs and ballast, installing, maintaining, or restoring drainage ditches, cleaning ballast, constructing minor curve realignments, improving or replacing interlockings, and the installation or maintenance of ancillary equipment.

*If no CE category applies, contact FRA, as the Project may require an EA or EIS. FRA will officially designate the Project as a CE only after conducting a Class of Action determination.*

*FRA may request the applicant or project sponsor to submit documentation to demonstrate that the specific conditions or criteria for the CEs are satisfied and that significant environmental effects will not result.*



**III. PROJECT INFORMATION**

Analyze and identify potential impacts from both construction and changes to operations (where applicable) for each resource type below. Where appropriate, the Project sponsor may commit to mitigation measures to avoid, reduce, or minimize impacts, including the use of Best Management Practices (BMP). Identify any mitigation measures necessary to comply with other laws or regulations in each section (e.g. Clean Water Act Section 404) and consider the impacts from mitigation.

- A. Affected Environment:** *Briefly describe the ecosystems and environmental conditions in the area affected by the Project (defined as broadly as necessary to evaluate potential impacts and address Project area habitats).*

As set forth in the attached scope of work, MR is expanding sidings, expanding walkways, and adding power and communication facilities in **existing rail right-of-ways** where there was previous ground disturbance; these improvements will occur in the Willits Block, Noyo Canyon Block, and Fort Bragg Block. More specifically, MR is renewing/repairing the Mill Site Track, which track over the years has been interrupted. MR is also adding a passing siding in the existing right-of-way at the Mill Site. MR will also make small fixes and improvements 27 of MR's 30 Bridges. MR will purchase flat cars for a variety of uses on the Line, including MOW, storage, and transportation of materials. MR also intends to purchase additional passenger coaches that will supplement rolling stock used for Willits and Fort Bragg blocks. Finally, MR seeks to acquire one or more locomotives for use in Fort Bragg.

The Line originates in the City of Fort Bragg, California, a small community along the Pacific Coast of California along Shoreline Highway in Mendocino County. It is located approx. 165 miles north of San Francisco and approx. 190 miles west of Sacramento, the two closest metropolitan areas. The Line terminates in Willits, California, which is 40 miles away by rail. The Line weaves through the redwood forests of the Noyo River Canyon. For people living along the remote Line, the railroad is a primary means of access. The Land surrounding the Line is largely forest land and much of it is used for hiking and other types of recreational use. The Line includes stops at The Glen, Redwood Lodge, Camp Noyo, Camp Mendocino, Northspur, and Headwaters.

- B. Location & Land Use:** *Briefly describe the existing land use of the Project site and surrounding properties and resources and identify and discuss any potential inconsistencies the Project might have with local land use plans and policies.*

The Project is included on the RTP (see Attachment describing the Project's consistency with local land use plans). As such, the Project is fully consistent with and indeed would facilitate Mendocino County's future transportation plans. Moreover, the Project dovetails neatly into relevant metropolitan and local planning, both of which envision reestablishing freight rail transportation in Mendocino County, CA. There are no legislative approvals required or the Project.

- C. Cultural Resources:** *Is the Project of the type where there is no potential to affect historic properties?*

Yes, explain how the Project is not the type of activity that has the potential to cause effects on historic properties, assuming historic properties are present. (Continue to D)

No, there is potential to affect historic properties, if present.

Project activities associated with repairs to the collapsed tunnel, improvements, repair to walkways on bridges, construction and maintenance of walkways along the ROW, track improvements, siding construction, signal communication and power generation fencing, and security measures have potential to affect historic properties.

The acquisition of rolling stock does not have the potential to affect historic properties, as this activity does not involve construction or ground disturbance that could affect historic properties.

***If No: Is the Project governed by a Federal agency program alternative established under Advisory Council on Historic Preservation regulations (36 CFR 800.14)?***

Yes, include the program alternative (Continue to D)

See attached Program Comment memo.

No, there is no applicable program alternative.

***Identify and describe the Area of Potential Effect (APE), the procedures to determine the existence of cultural resources, any resource(s) identified in the APE, and then describe any potential effect of the Project on the resource(s).***

***Have you consulted with the State Historic Preservation Office?***

No, contact FRA

Yes, describe and attach relevant correspondence

***What resources of interest to Federally-recognized Native American Tribes are known to be present in the Project area?***

The work location at the Mill Site is an area of interest to the Sherwood Band of Pomo Indians. On June 25, 2019, MR had its first meeting with the Sherwood Band of Pomo Indians. In that meeting, MR met with Tina Sutherland-Eads, Tribal Historic Preservation Officer for the Sherwood Band of Pomo Indians and Andrew Ramey, CEO of MACWORX, a Native American consulting firm to the Sherwood Band of Pomo Indians. This meeting discussed the project and its overall intentions.

Throughout 2020, MR continued to consult with the Sherwood Band of Pomo Indians. There have been no concerns expressed. At the July and September 2019 meetings where MR presented its plans for the development of the Mill Site, the Elder Council of the Sherwood Band of Pomo Indians expressed their support for the Mill Site project.

MR has indicated to the Sherwood Band of Pomo Indians that no major subsurface excavation that could potentially disturb historic/cultural artifacts was needed to complete the Project. As such, there has been no objection to the work being done.

- D. Parks and Recreational Facilities:** *Are there any publicly owned park, wildlife and waterfowl refuge, or recreational area of national, state, or local significance within or directly adjacent to the Project area?*

No, include a short statement describe efforts to identify parks and recreational facilities in the Project area.

Aerial maps and topographic maps do not indicate that any parks or recreational areas exist adjacent to the Line. The closest the railroad gets to a park or recreational facility is at Grove, CA (where the Line is 0.5 miles from Jackson State Forest). All work and access associated with the Project will occur along the ROW, and the Project will not impact any parks or recreational facilities.

Yes, include a detailed description of the property, including map or drawing, describe the recreational uses of the property, any unique characteristics of the property, any consultations with the entity with legal jurisdiction over the property, and the potential impact on the property.

**E. Transportation:** *Would the Project have any effect (beneficial or adverse) on transportation including but not limited to other railway operations, road traffic, or increase the demand for parking?*

No, explain why the Project would have no effect (beneficial or adverse) on transportation,

Yes, describe potential transportation, traffic, and parking impacts, and address capacity constraints and potential impacts to existing railroad and highway operations. Also, summarize any consultation that has occurred with other railroads or highway authorities whose operations this Project will impact.

The project will allow MR to renew freight and passenger offerings over its entire Line. Such operations were interrupted in 2015 when Tunnel #1 collapsed severing the Line and although freight and passenger operations were reduced, MR has continued to transport both since the tunnel collapse. The Project will ensure shippers and industries that utilize the Line have access to safe and viable rail service between Fort Bragg, California and Willits, California, and even farther due to transloading. The project is being undertaken to serve shippers interested in rail service over the MR Line. As such, the project has independent utility.

The scope of the project and the improvements to be funded via RRIF Express is limited to the Line from Fort Bragg, CA to Willits, CA. While North Coast Railroad Authority's ("NCRA") efforts to railbank its line from Willits to Eureka is at most tangentially related, the outcome of NCRA's efforts in that proceeding will not impact MR's ability or plans to offer and provide common carrier rail service over the MR rail line to potential shippers between Fort Bragg, CA and Willits, CA.

Logs, aggregates, and municipal solid waste (MSW) are expected to move over the MR's rail line. Companies such as North Coast Brewing and FloBeds have expressed an interest in using the line for common carrier freight service.

While MR's rail line has seen its fair share of severe winter storms MR spends a good deal of time annually on ensuring that proper drainage exists, and that any potential upstream hazards are dealt with. While MR is quite familiar with the trials and tribulations over the NCRA's line, geographically the northern section from Willits to Eureka is prone to more issues than MR's line. MR's rail line is actively used by freight and passenger customers and will continue to serve these and prospective customers upon completion of the proposed project activities which will refurbish the line.

**F. Noise and Vibration:** *Are there any sensitive receptors in the Project area?*

No, describe why there are no sensitive receptors (residences, parks, schools, hospitals, public gathering spaces) in or near the Project area. (Continue to G)

MR's desktop review determined there were no sensitive receptors such as residences, schools, hospitals, or public places in the immediate Project area, which is largely rural in character.

Yes, will the Project change the noise and/or vibration exposure of the sensitive receptors when applying the screening distances for noise and vibration assessment found in FRA's and the Federal Transit Administration's most recent noise impacts assessment guidance manuals. Such changes in exposure might include changes in noise emissions and/or noise events, or changes in vibration emissions and/or vibration events.

***If the Project is anticipated to change the noise or vibration exposure of sensitive receptors, complete and attach a General Noise and/or Vibration Assessment. Describe the results of the Assessment and any mitigation that will address potential impacts.***

Despite the Tunnel#1 closure, the split-Line currently handles an average of six round trips daily, and the improvements will allow for one additional train to transverse the entire Line daily. Trains leave from Willits, CA and head west and trains leave from Fort Bragg, CA and head east. Although the Project will result in the addition of one train trip across the line per day, the Project is anticipated to result in a reduction of noise and vibration caused by railroad operations over the dilapidated Line because of the rehabilitation to the Line, which will bring the Line into a State of Good Repair.

**G. Air Quality:** *Describe any impacts to air quality from the Project, whether beneficial or adverse.*

***Is the Project located in a Non-Attainment or Maintenance area?***

No, identify any air emissions increases or benefits that the project will create. (Continue to H)

Yes, ***for which of the following pollutants:***

Carbon Monoxide (CO)  Ozone (O3), volatile organic compounds or Nitrous Oxides (NOx)

Particulate Matter (PM10 and PM2.5)

***Will the Project, both during construction and operation, result in new emissions of criteria pollutants including Carbon Monoxide (CO), Ozone (O3), volatile organic compounds, or Nitrous Oxides NOx, Particulate Matter (PM10 and PM2.5)?***

No  Yes, Attach an emissions analysis for General Conformity regarding CO, O3, PM10 or PM2.5, and NOx.

***Based on the emissions analysis, will the Project increase concentrations of ambient criteria pollutants to levels that exceed the National Ambient Air Quality Standards, lead to the establishment of a new non-attainment area, or delay achievement of attainment?***

No  Yes

According to a Benefit Cost Analysis completed in connection with MR's BUILD 2020 application, the Project renews environmentally friendly rail service and result in emissions savings over 20 years as follows: NOX – 26.7 tons; PM10 – 1.6 tons; SOX – 0.3 tons; VOC – 3.8 tons.

**H. Hazardous Materials:** *Does the Project involve the use or handling of hazardous materials?*

No (continue to I)

Yes, describe the use and measures that will mitigate any potential for release and contamination.

The Project involves the removal of the chromated copper arsenate railroad ties from the Line, which are considered hazardous waste. MR has adopted BMPs to ensure that old ties will be collected and placed in a dumpster for disposal and properly disposed of as hazardous waste.

**I. Hazardous Waste:** *Is the Project site in a developed area or was it previously developed or used for industrial or agricultural production?*

No, describe the steps taken to determine that hazardous materials are not present on the Project site. (Continue to J)

Yes (**Partially**)

For the Mill Site, there is an ongoing environmental remediation, and the site has previously had extensive environmental issues. The scope of the work at Fort Bragg is located at Mill Site North.

For the remainder of the line and the Project area, it is continuously surveyed and inspected. Based on these inspections, MR does not believe any hazardous materials are present on the Line. However, MR will monitor for the presence of hazardous materials during construction.

***If yes, is it likely that hazardous materials will be encountered by undertaking the Project? (Prior to acquiring land or a facility with FRA funds, consult with FRA regarding the potential presence of hazardous materials)***

Yes, complete a Phase I site assessment and attach.

No, explain why it is unlikely that hazardous materials will be encountered.

Attached is a letter dated October 20, 2021, from Fulcrum Advocates, PC explaining that while the project is on property once used for industrial purposes, no environmental concerns are present on the portion of the subject property where the one-mile of track is to be refurbished. In fact, a portion of the subject property is utilized currently as part of Mendocino Railway's operations.

Mendocino Railway employs best management practices across the board (operations, maintenance, infrastructure improvements). Given the extension environmental investigation, it is highly unlikely that hazardous materials (other than the chromated copper arsenate railroad) will be encountered. However, if such materials are encountered, consistent with its best practices Mendocino Railway will turn to Kennedy Jenks for an immediate response.

***If a Phase I survey was completed, is a Phase II site assessment recommended?***

No, explain why a Phase II site assessment is not recommended.

Both a Phase 1 and Phase 2 were completed in the past two decades. As explained in the letter dated October 20, 2021 from Fulcrum Advocates, PC, the approximately one-mile of rail line to be refurbished is located on a subject project that has been the subject of extensive environmental review and till this date is subject to environmental remediation. The entire property at the Fort Bragg Mill Site is subject to the continued oversight of the Department of Toxic Substances Control (DTSC).

Yes, provide a copy of the Phase II site assessment and describe mitigation and clean-up measures to remediate any hazardous materials present identified in the Phase II site assessment, and describe what steps will be taken to ensure that the local community is protected from contamination during construction and operation of the Project.

**J. Property Acquisition: *Is property acquisition needed for the Project?***

No (continue to K)

Yes, indicate how much property and whether the acquisition will result in relocation of businesses or individuals.

❖ ***Note: acquiring property prior to completing the NEPA process and receiving written FRA concurrence in the NEPA recommendation may jeopardize Federal financial participation in the Project***

**K. Community Impacts and Environmental Justice: *Is the Project likely to result in impacts to adjacent communities? Impacts might be both beneficial (e.g. economic benefits) or adverse (e.g. reduction in community cohesion).***

No, describe the steps taken to determine whether the Project might result in impacts to adjacent communities. (Continue to L)

The project will merely allow MR to renew freight and passenger offerings over its entire Line and at the former Mill Site. MR's current operations were interrupted in 2015 when Tunnel #1 collapsed severing the Line. Mill Site operations (and the related trackage) have been disrupted gradually over time, since the rail served Mill Site facility's closure. The Project seeks to address transportation challenges related to critical infrastructure, which has and will help sustain and flourish economic growth in the region for communities that rely on the line for both passenger and freight rail service.

Yes, characterize the socio-economic profile of the affected community, including the presence of minority or low-income populations.

***Describe any potential adverse effects to communities, including noise, visual and barrier effects. Indicate whether the Project will have a disproportionately high and adverse effect on minority or low-income populations. Describe outreach efforts targeted specifically at minority or low-income populations.***

**L. Impacts On Wetlands: *Does the Project temporarily or permanently impact wetlands or require alterations to streams or waterways?***

No, describe the steps taken to determine that the Project is not likely to temporarily or permanently impact wetlands or require alterations to streams or waterways. (Continue to M)

None of the minor bridge repairs will take place in the waterways, as no headwall work will occur as part of the Project. For all work along the line, MR will implement BMPs to ensure no unintended discharges. MR is committed to employing BMPs to ensure that the likelihood of environmental impacts to waterways, if any, are minimized. Specifically, for the repairs Tunnel #1 and the small fixes and improvements to the 27 rail bridges, BMPs will include:

- Railroad will ensure that all work is done within existing railroad right-of-way;
- All materials, supplies, and personnel will be transferred to and from Tunnel #1 using work trains (not trucks) to reduce the Project's environmental footprint;
- Discarded materials will be loaded into train immediately to prevent wind blowing materials into nearby waterways;
- Given the work is done inside the Tunnel#1 there is little to no outside work. Regardless, MR will, when necessary, ensure that silt fences are installed along with straw wattles, and bales of straw to ensure that if there is any dirt removed there is no chance for it to enter a waterway.

For the other components of the Project, the BMPs will include:

- Railroad will ensure that all work is done within existing railroad right-of-way;
- Ties to be marked by experienced Track Foreman or General Manager familiar with the track and its operating requirements; Ties to be received in Bundles and Unloaded in railroad ROW; Ties to be individually distributed to spot of installation; Ties to be replaced by the contractor (Tie Inserter, Backhoe);
- Installation of straw wattles;
- Covering disturbed surfaces with organic matter to prevent soils runoff; and all work will be done in the existing right of way; and
- Implementing other reasonable measures necessary to minimize the Project's environmental footprint.

Yes, show wetlands and waters on the site map and classification. Describe the Project's potential impact to on-site and adjacent wetlands and waters and attach any correspondence with the US Army Corps of Engineers.

***Is a Section 404 Permit necessary?***

Yes, attach all permit related documentation

No

**M. Floodplain Impacts:** *Is the Project located within the 100-year floodplain or are regulated floodways affected?*

No (Continue to N)

FEMA floodplain maps were reviewed to determine potential impact on regulated floodways based on the Line's location.

Yes, describe the potential for impacts due to changes in floodplain capacity or water flow, if any and how the Project will comply with Executive Order 11988.

***If impacts are likely, attach scale maps describing potential impacts and describe any coordination with regulatory entities.***

- N. Water Quality:** *Are protected waters of special quality or concern, or protected drinking water resources present at or adjacent to the Project site?*

No, describe the steps taken to identify protected waters of special quality or concern, or protected drinking water resources present at or adjacent to the Project site.

Because the tunnel work is less than one acre, the work does not trigger the need for a permit from the North Coast Regional Water Quality Control Board.

Yes, describe water resource and the potential for impact from the Project, and any coordination with regulatory agencies.

- O. Navigable Waterways:** *Does the Project cross or have an effect on a navigable waterway?*

No (continue to P)

Yes, describe potential for impact and any coordination with US Coast Guard.

Several bridges in the Noyo Canyon block cross the Noyo River, a navigable waterway (see attached bridge list for locations). Although the work will not impact the waterway, MR will notify the Coast Guard of the proposed work on bridges that cross the Noyo River, as well as bridge work at other locations that cross waterways along the line.

- P. Coastal Zones:** *Is the Project in a designated coastal zone as defined in 16 U.S.C. 1453(1)?*

No (continue to Q)

Yes, describe coordination with the applicable coastal state(s) regarding consistency with the coastal zone management plan and attach the coastal state's finding if available.

MR intends to make repairs/improvements to its Fort Bragg, CA Mill Site (located on the Mendocino Coast), which was previously rail served and which will be utilized upon restoration of rail service. The improvements are part of a larger Mill Site North plan being developed in connection with the City Council/ planning commission. A Federal Consistency Review for activities in the Coastal Zone with the California Coastal Commission will be conducted as part of the redevelopment of Mill Site North by the site developer prior to construction of MR's portion of the project. See attached narrative demonstrating the project's consistency with the California Coastal Act which will be submitted to the California Coastal Commission as part of the Federal Consistency Review. The other Project components are not within a designated coastal zone.

The work will not impact the California Coastal Trail during construction or as a result of the Project. The track will be re-established within its historical footprint, which is set back from the trail and property line and separated from the coastal trail by a fence.

- Q. Prime and Unique Farmlands:** *Does the Project impact any prime or unique farmlands?*

No, describe the steps taken to identify impacts to prime or unique farmlands.



The Line predominantly travels a mountainous region. MR has operated the Line in the region for 15 years. The work will occur within the footprint of the existing operational railroad ROW and Mill Site which has been historically utilized for rail and industrial site operations. Therefore, the Project will not impact prime or unique farmlands.

Yes, describe potential for impact and any coordination with the Natural Resources Conservation Service of the US Department of Agriculture.

**R. Critical Habitat and Threatened or Endangered Species:** *Are there any designated critical habitat areas (woodlands, prairies, wetlands, rivers, lakes, streams, and geological formations determined to be essential for the survival of a threatened or endangered species) within or directly adjacent to the Project site?*

No, describe the steps taken to identify critical habitat within or adjacent to the Project site.

Yes, describe them and the potential for impact.

MR reviewed the US Fish and Wildlife's Information for Planning and Consultation (IPaC) database (see attachment) to determine the presence of critical habitat within or adjacent to the Project site. Based on the results of this review, the Project overlaps critical habitat for the tidewater goby (*Eucyclogobius newberryi*). However, since the Project does not involve in-water work and will employ BMPs to minimize the likelihood of impacts to waterways (see section L), no impacts to critical habitat are anticipated to occur as a result of the Project.

***Are any Threatened or endangered species located in or adjacent to the Project?***

No, describe the steps taken to identify the presence of endangered species adjacent to the Project site.

Yes, describe them and the potential for impact.

Based on the IPaC report (see attachment), several threatened or endangered species have the potential to occur within or adjacent to the Project area, including listed mammals, birds, amphibians, reptiles, fish, and insects. However, all work, with the exception of the activities at the Mill Site, is limited to the existing disturbed portion of the actively maintained railroad, which does not provide habitat for threatened or endangered species.

The work at the Mill Site will occur within the footprint of the existing disturbed site formerly utilized as an industrial site. Disturbed areas which were historically utilized for rail operations remain in the footprint of the proposed track extension and provide limited to no habitat for threatened and endangered species. Therefore, FRA has determined that the Project will have *No Effect* on threatened and endangered species or their habitat.

Describe any consultation with the US Fish and Wildlife Service, National Marine Fisheries Service, or State, as appropriate, about the impacts to critical habitat and to threatened and endangered species. If required, prepare a biological assessment and attach it and any applicable agency correspondence.

**S. Public Safety:** *Will the Project result in any public safety impacts?*

No, describe method used to determine whether the Project results in any safety or security impacts.

While the Project will materially improve the safety of rail operation over the Line, no portion of the Project would adversely impact the safety and security of the surrounding areas. The Project will also promote safer use of the line by MOW crews that are responsible for inspecting and maintaining the line.

Yes, describe the impacts to safety or security and any measures that would need to be taken to provide for the safe and secure operation of the Project during and after its construction.

**T. Cumulative Impacts:** A "cumulative impact" is the impact on the environment that results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts may include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or resulting from smaller actions that individually have no significant impact. Determining the cumulative environmental consequences of an action requires delineating the cause-and-effect relationships between the multiple actions and the resources, ecosystems, and human communities of concern.

*Are cumulative impacts likely?* Yes  No  Yes, describe the impacts:

**U. Indirect Impacts:** "Indirect impacts" are those that are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect impacts may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

*Are Indirect impacts likely?* Yes  No  Yes, describe the impacts:

**V. Mitigation:** Describe all mitigation measure commitments which address identified impacts that have been incorporated into the Project, if any.

***What is the Project sponsor's plan to enforce and monitor the mitigation proposed?***

***What are FRA's additional mitigation requirements (if any)?***

**Hazardous Waste:** The Project involves the removal of the chromated copper arsenate railroad ties from the Line, which are considered hazardous waste. MR has adopted BMPs to ensure that old ties will be collected and placed in a dumpster for disposal and properly disposed of as hazardous waste. If hazardous waste is encountered, MR will engage Kennedy Jenks for an immediate response and proper handling of the materials.

**Navigable waterways:** MR will notify the Coast Guard of the proposed work on bridges that cross the Noyo River, a navigable waterway, as well as bridge work at other locations that cross waterways along the line.

**Wetlands:** For the repairs Tunnel #1 and the small fixes and improvements to the 27 rail bridges, BMPs will include:

- Railroad will ensure that all work is done within existing railroad right-of-way;
- All materials, supplies, and personnel will be transferred to and from Tunnel #1 using work trains (not trucks) to reduce the Project's environmental footprint;
- Discarded materials will be loaded into train immediately to prevent wind blowing materials into nearby waterways;
- Given the work is done inside the Tunnel#1 there is little to no outside work. Regardless, MR will, when necessary, ensure that silt fences are installed along with straw wattles, and bales of straw to ensure that if there is any dirt removed there is no chance for it to enter a waterway.

For the other components of the Project, the BMPs will include:

- Railroad will ensure that all work is done within existing railroad right-of-way;
- Ties to be marked by experienced Track Foreman or General Manager familiar with the track and its operating requirements; Ties to be received in Bundles and Unloaded in railroad ROW; Ties to be individually distributed to spot of installation; Ties to be replaced by the contractor (Tie Inserter, Backhoe);
- Installation of straw wattles;
- Covering disturbed surfaces with organic matter to prevent soils runoff; and all work will be done in the existing right of way; and
- Implementing other reasonable measures necessary to minimize the Project's environmental footprint.

**Coastal Zone:** A Federal Consistency Review for activities in the Coastal Zone with the California Coastal Commission will be conducted as part of the redevelopment of Mill Site North by the site developer prior to construction of MR's portion of the project. Once the review is complete, MR will submit all documentation to FRA.

- W. Public Notification:** *Briefly describe any public outreach efforts undertaken on behalf of the Project, if any. Indicate opportunities the public has had to comment on the Project (e.g., Board meetings, open houses, special hearings).*

The project has the support of the City of Fort Bragg, California, and Mendocino County, California along with federal, state, and local legislators and community leaders, and shippers and communities along the Line. The Project is part of publicly reviewed Mill Site North plans.

***Has the Project generated any public discussion or concern, even though it may be limited to a relatively small subset of the community? Indicate any concerns expressed by agencies or the public regarding the Project.***

Letters were submitted to the Build America Bureau by the California Coastal Commission and North Coast Railroad Authority. The environmental concerns contained in those letters, which generally addresses issues beyond the Project scope, have been addressed in the transportation and coastal zone sections of this CE worksheet. The letters are provided as an attachment in addition to the project sponsor's response.

- X. Related Federal, State, or Local Actions:** *Does the Project require any additional actions (e.g., permits) by other Agencies? Attach copies of relevant correspondence. It is not necessary to attach voluminous permit applications if a single cover agency transmittal will indicate that a permit has been granted. Describe permitting issues in the relevant resource discussion above.*

FRA Categorical Exclusion Worksheet

- Section 106** *Historic Properties*
- Section 401/404 of the Clean Water Act;** *Wetlands and Water Quality*
- Section 402 of the Clean Water Act**
- USCG 404** *Navigable Waterways*
- Migratory Bird Treaty Act**
- Endangered Species Act** *Threatened and Endangered Biological Resources*
- Magnuson-Stevens Fishery Conservation and Management Act** *Essential Fish Habitat*
- Safe Drinking Water Act**
- Section 6(f) Land and Conservation Act**
- Other State or Local Requirements** (Describe) - Federal Consistency Review for activities in the Coastal Zone with the California Coastal Commission

# Attachment 2

Coastal Consistency Determination  
Mendocino Railway's Railroad Improvements Project – RRIF Express Application

**1. AUTHORITY**

This Coastal Consistency Determination is submitted in compliance with the Coastal Zone Management Act of 1972 (16 U.S.C. § 1451-1464), the California Coastal Management Program and the enforceable policies in Chapter 3 of the California Coastal Act of 1976 (Cal. Pub. Res. Code §§ 30200 et seq.).

**2. DETERMINATION/ DESCRIPTION**

Mendocino Railway (MR) rail line connects the coastal town of Fort Bragg, CA with Willits, CA, which is 40 miles inland. The railroad includes numerous stations, two major tunnels, and 30 bridges as it winds its way through the Noyo Canyon. The MR is an important means of transportation to the remote City of Fort Bragg and the Mendocino Coast. MR's Mendocino Branch extends from Milepost 0 (at Fort Bragg, California) to Milepost 40 (at Willits, California) (the Mendocino Branch).

The improvements composing the project, all of which will be made within MR's existing 50-100 foot right-of-way, include replacing over 32,000 ties and 2,100 sticks of rail, refurbishing six preexisting sidings and crew walkways, improving 27 bridges, and repairs required to re-open Tunnel #1 (Project). The majority of the Mendocino Branch is not location within a Coastal Zone. The only portion of the Project within a Coastal Zone is one-mile of rail line track to be reconstructed on the Mendocino Branch at Fort Bragg, CA. This activity will consist of reestablishing support track and track historically used for freight and passenger services. The track within the coastal zone will be rehabilitated within the historical footprint of the rail line, which was removed as part of an overall site environmental remediation effort.

As part of compliance with the National Environmental Policy Act (NEPA), MR has reviewed the California Coastal Act of 1976 and believes that the proposed Project is consistent to the maximum extent practicable with the California Coastal Act of 1976 as amended. The consistency determination is limited to the portion of the Project related to the Mill Site, which is located within a Coastal Zone, and California Coastal Commission Commission's (CCC) concerns related to potential impacts to the CA Coastal Trail, archaeological resources, and safety of trail users.

**3. CONSISTENCY WITH THE CALIFORNIA COASTAL ACT**

**ARTICLE 2, PUBLIC ACCESS**

As stated previously, the only portion of the Project within the Coastal Zone is one-mile of rail line track to be reconstructed on the Mendocino Branch at Fort Bragg, CA. The work involves reestablishing support track and track historically used for freight and passenger services. The track within the Coastal Zone will be re-habilitated within the historical footprint of the rail line, which was removed as part of an overall site environmental remediation effort. Per Section

30212 this does not constitute a new development project, but rather the Project seeks to restore track historically used for railroad services. Lastly, for years MR has owned the surrounding trackage, which is not necessary for public access to the coast because as stated in Section 30212, adequate public access exists nearby via the CA Coastal Trail for the coastal segment adjacent to the Mill site. Additionally, nearby the coast is accessible by car and bicycle via roads that lead to designated coastal access points. For these reasons, the Project is consistent with public access provisions of Article 2 of the California Coastal Act of 1976 as amended.

### **ARTICLE 3, RECREATION**

MR plans to run trains over its trackage and allow visitors to observe the coast and take photographs and/ or explore the coast via railbikes. This will allow the public to use the rail tracks for recreational purposes (sightseeing, photography, and rail biking), while simultaneously protecting and promoting a healthy, functioning coastal ecosystem. MR will ensure best management practices to ensure that construction and rail operations and any related run-off from such Project is controlled and does not impact the marine environment, consistent with the marine environment provisions of the California Coastal Resources Planning and Management Policies. Specifically, MR has committed to implementing the following BMPs across the entire Project site, including areas within Coastal Zone areas:

- MR will ensure that all work is done within existing railroad right-of-way
- Ties will be marked by an experienced Track Foreman or General Manager familiar with the track and its operating requirements; Ties will be received in bundles and unloaded in the railroad ROW; Ties will be individually distributed to the spot of installation; Ties will be replaced by the contractor (Tie Inserter, Backhoe)
- Installation of straw wattles
- Covering disturbed surfaces with organic matter to prevent soils runoff, and
- Implementing other reasonable measures necessary to minimize the Project's environmental footprint.

### **ARTICLE 4, MARINE ENVIRONMENT**

The Project is not expected to impact the Marine Environment, as none of the Project is being constructed directly adjacent to or in the Marine Environment. CCC raises concerns that MR has plans to use Railroad Rehabilitation & Improvement Financing to construct a new train station along the coastal bluff edge. The Skunk Train station will remain at its current terminus along the coastal highway in the center of the City, and the Project does not involve the relocation of the Skunk Train station, located at 100 West Laurel Street Fort Bragg, California. As such, CCC's concerns related to the impact of the relocation of the station on the marine environment and coastal resources need not be addressed herein. The Project as proposed will not impact the Marine Environment.

### **ARTICLE 5, LAND RESOURCES**

MR proposes to restore historical rail operations in an area once used for heavy industrial purposes. Because of the prior and long-term industrial use of the land, the Project as proposed will not impact environmentally sensitive habitat areas, prime agricultural land, or long-term

productivity of soils and timberlands. Given the heavily disturbed nature of the site, archaeological or paleontological resources are unlikely to be present in the Project area. Should MR identify archeological remains in reestablishing the track MR would immediately cease work and consult with the State Historic Preservation Office on appropriate handling procedures.

## **ARTICLE 6, DEVELOPMENT**

Views to, from, and within Coastal Zone are important to MR. MR embraces its role as an environmental steward. In fact, the Mendocino Branch provides access to the California Redwood forest, one of our nation's greatest treasures. MR is one of a handful of places where people with ambulatory restraints can be taken into these forests. Similarly, the track to be reestablished at the Mill Site will allow for train turn around, freight train assembly, and will provide scenic access to the coast for people with disabilities aboard the train.

CCC's concerns that extension of the railway and train station would be constructed within areas of known archaeological resources and would be built parallel to, and immediately adjacent to a popular segment of the Fort Bragg Coastal Trail resulting in safety hazards for those who would need to cross the rail line to access the trail and detracting from their use and enjoyment of the trail itself are likely the result of CCC's misunderstanding of what is involved in the Project. While over the years, MR has explored a number of projects, the current project and work within the coastal zone is limited to replacing one mile of track within its historical footprint, not construction of any structures in the coastal zone. As such, the work that MR will undertake as part of the Project will have no impact on the coastal trail. All work is being done in the existing railroad right-of-way, which is sufficiently set back from not only the trail but the trail's property line as well which is separated by a fence.

Because MR considers and strives to protect, to the maximum extent possible, the scenic and visual qualities of the coastal area, the Project is consistent with the development provisions of the California Coastal Resources Planning and Management Policies.

## **ARTICLE 7, INDUSTRIAL DEVELOPMENT**

This article does not apply to Project: the Project does not involve tanker facilities, oil and gas development, refineries, or petrochemical facilities, or similar activities.