**Case No. A168497**
**(Consolidated with Case No. A168959)**

**IN THE COURT OF APPEAL**
**OF THE STATE OF CALIFORNIA**

**FIRST APPELLATE DISTRICT**
**DIVISION ONE**

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MENDOCINO RAILWAY,

*Plaintiff and Appellant,*

v.

JOHN MEYER,

*Defendant and Respondent.*

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On Appeal from the Superior Court for the State of California
County of Mendocino, Case No. SCUKCVED202074939
Hon. Jeanine Nadel

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# APPLICATION OF THE CALIFORNIA COASTAL COMMISSION FOR LEAVE TO FILE AMICUS CURIAE BRIEF IN SUPPORT OF RESPONDENT JOHN MEYER

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January 28, 2025

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TO BE FILED IN THE COURT OF APPEAL **APP-008**

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|---|---|
| **COURT OF APPEAL** FIRST **APPELLATE DISTRICT, DIVISION** ONE | COURT OF APPEAL CASE NUMBER: A168959 and A168497 |
| ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NUMBER:<br>NAME: Patrick Tuck<br>FIRM NAME: California Department of Justice<br>STREET ADDRESS: 1515 Clay Street, 20th Floor<br>CITY: Oakland STATE: CA ZIP CODE: 94612<br>TELEPHONE NO.: (510) 879-1006 FAX NO.: (510) 622-2121<br>E-MAIL ADDRESS: patrick.tuck@doj.ca.gov<br>ATTORNEY FOR (*name*): Amicus Curiae California Coastal Commission | SUPERIOR COURT CASE NUMBER: SCUKCVED202074939 |
| APPELLANT/ PETITIONER: Mendocino Railway<br>RESPONDENT/ REAL PARTY IN INTEREST: John Meyer | |

**CERTIFICATE OF INTERESTED ENTITIES OR PERSONS**

*(Check one):* [X] INITIAL CERTIFICATE [ ] SUPPLEMENTAL CERTIFICATE

**Notice: Please read rules 8.208 and 8.488 before completing this form. You may use this form for the initial certificate in an appeal when you file your brief or a prebriefing motion, application, or opposition to such a motion or application in the Court of Appeal, and when you file a petition for an extraordinary writ. You may also use this form as a supplemental certificate when you learn of changed or additional information that must be disclosed.**

1. This form is being submitted on behalf of the following party (*name* ): Amicus Curiae California Coastal Commission

2. a. [X] There are no interested entities or persons that must be listed in this certificate under rule 8.208.

   b. [ ] Interested entities or persons required to be listed under rule 8.208 are as follows:

| | **Full name of interested entity or person** | **Nature of interest *(Explain):*** |
|---|---|---|
| (1) | | |
| (2) | | |
| (3) | | |
| (4) | | |
| (5) | | |

[ ] Continued on attachment 2.

**The undersigned certifies that the above-listed persons or entities (corporations, partnerships, firms, or any other association, but not including government entities or their agencies) have either (1) an ownership interest of 10 percent or more in the party if it is an entity; or (2) a financial or other interest in the outcome of the proceeding that the justices should consider in determining whether to disqualify themselves, as defined in rule 8.208(e)(2).**

Date: January 28, 2025

Patrick Tuck, Deputy Attorney General
(TYPE OR PRINT NAME)

(SIGNATURE OF APPELLANT OR ATTORNEY)

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**APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF**

TO THE HONORABLE JIM HUMES, PRESIDING JUSTICE OF THE COURT OF APPEAL, FIRST APPELLATE DISTRICT, DIVISION ONE:

The California Coastal Commission ("Coastal Commission") respectfully requests permission to file the accompanying brief as amicus curiae in support of defendant and respondent John Meyer pursuant to California Rules of Court, rule 8.200(c), to encourage the Court to decide this appeal based on the arguments developed before the trial court and not weigh in on federal law issues unnecessary to the resolution of this appeal.

The Coastal Commission is charged with administering the California Coastal Act of 1976 ("Coastal Act"), including by regulating development in California's coastal zone to ensure it does not contravene the Coastal Act's policies. The Coastal Commission has been engaged in litigation with Mendocino Railway ("Railway") for more than two years in both state and federal court[1] pertaining in part to the Railway's unpermitted development in the coastal zone and its claimed preemption under federal law from Coastal Commission and local government oversight. (*City of Fort Bragg v. Mendocino Railway* (Mendocino County Super. Ct., No. 21CV00850), where the Coastal Commission is an intervenor-plaintiff ("Mendocino Action").) Because the Railway's status under federal

[1] The federal action was dismissed on abstention grounds, and the Ninth Circuit affirmed that dismissal on August 29, 2024. (*Mendocino Railway v. Ainsworth* (9th Cir. 2024) 113 F.4th 1181.)

Document received by the CA 1st District Court of Appeal.

law and federal preemption issues will be considered and decided in the Mendocino Action, federal law issues need not be considered or determined in this appeal.

This amicus brief explains why: (1) the Railway forfeited its new argument under Article XII, section 3 of the California Constitution by not raising it in the trial court, (2) the Coastal Commission urges this Court not to make any determination regarding the Railway's irrelevant status or regulation under federal law, and (3) in any event, the Railway lacks status or regulation under federal law because it is not connected to the interstate rail network.

The Coastal Commission respectfully requests that the Court accept the proposed amicus curiae brief for filing.

Respectfully submitted,

ROB BONTA
*Attorney General of California*
DANIEL A. OLIVAS
*Senior Assistant Attorney General*
DAVID ALDERSON
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/s/ *Patrick Tuck*
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Document received by the CA 1st District Court of Appeal.

## TABLE OF CONTENTS

**Page**



Document received by the CA 1st District Court of Appeal.

## TABLE OF AUTHORITIES

**Page**

**CASES**



Document received by the CA 1st District Court of Appeal.

## TABLE OF AUTHORITIES
## (continued)

**Page**



**STATUTES**



**CONSTITUTIONAL PROVISIONS**



Document received by the CA 1st District Court of Appeal.

## INTRODUCTION

Plaintiff-Appellant Mendocino Railway ("Railway"), operator of a tourist excursion railroad in Mendocino County, seeks a declaration that it is a common carrier and public utility so that it might take Defendant-Respondent John Meyer's ("Meyer") private property through eminent domain. As the trial court found, the Railway's business of taking passengers on round-trip excursions along portions of its rail line does not demonstrate that the Railway is a common carrier and does not qualify it as a public utility. (CT 2039-40.)

For the first time on appeal, the Railway contends that it is automatically a public utility under Article XII of the California Constitution and for purposes of California eminent domain law because it is "an STB-regulated common carrier."[2] (Mendocino Railway's Opening Brief ("Opening Br.") 10, 15.) However, the Railway forfeited this argument by not raising it in the trial court. As the trial court observed, "[t]here was no designation of [the Railway]'s status by the STB offered by [the Railway]" at trial. (CT 2037.) This Court therefore need not consider this new argument in order to determine if the Railway has the power to take Mr. Meyer's property under California eminent domain law.

The Railway's argument fails for other reasons as well. The Railway's status under federal law is not relevant to the determination of its ability to take private property under

[2] The Surface Transportation Board, or STB, is a federal agency charged with regulating surface transportation nationwide, with a primary focus on freight rail. (See https://www.stb.gov/about-stb/.)



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California eminent domain law. And even if it were, the Railway is not and has never been connected to the interstate rail network and has not provided any evidence that it has participated in the hauling of freight or transport of passengers as part of the interstate rail network over the more than 20 years it has owned and operated the so-called "Skunk Train." (CT 1917-18, 1941, 1947-49.) As such, it is not regulated by the STB under federal law.

## BACKGROUND

In October 2021, the City of Fort Bragg ("City") filed suit against Mendocino Railway in Mendocino County Superior Court (*City of Fort Bragg v. Mendocino Railway*, Case No. 21CV00850) ("Mendocino Action"), seeking declaratory relief that the Railway "is not subject to regulation as a public utility because it does not qualify as a common carrier providing 'transportation,'" and injunctive relief commanding the Railway to comply with the City's laws and regulations. (Request for Judicial Notice by the California Coastal Commission in Support of Amicus Brief ("Commission RJN") Exhibit A at p. 6.) The Railway demurred to the City's complaint, arguing that the superior court lacked subject matter jurisdiction over the City's declaratory relief action due to exclusive regulation of the Railway by the California Public Utilities Commission (CPUC), and, as relevant here, that "state and local regulatory and permitting requirements are broadly preempted" by the federal STB's purported exclusive jurisdiction over the Railway. (See CT 841.) The superior court overruled the Railway's demurrer, finding

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that the Railway is not operating as a public utility and "is simply a luxury sightseeing excursion service with no connection to interstate commerce." (CT 848-49.)

In October 2022, the Coastal Commission intervened in the Mendocino Action in support of the City. (Commission RJN Exhibit B.) The Commission's complaint in intervention seeks, in relevant part, a declaration that the application of the Coastal Act to the Railway's development actions in the coastal zone is not preempted by state or federal law. (*Id.* at p. 7.) The Mendocino Action remains pending and will necessarily address the Railway's disputed STB-regulated status under federal law, and potential federal preemption of regulation of the Railway's activities by the Coastal Commission and the City.[3]

## STATEMENT OF INTEREST

The Coastal Commission files this brief as amicus curiae to urge this Court to refrain from making any determination regarding Mendocino Railway's purported, yet irrelevant, status as an STB-regulated railroad and common carrier under federal law that could impact the Mendocino Action, and to preserve the Coastal Commission's ability to argue in that action that the Railway is not an STB-regulated federal railroad.

If, however, this Court does reach the issue of the Railway's purported STB regulation status, for the reasons set forth below,

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[3] See *Mendocino Railway v. Ainsworth, supra,* 113 F.4th 1181, 1190-93 [affirming the federal district court's dismissal of the Railway's federal complaint, the Ninth Circuit Court of Appeals acknowledged the state court's "concurrent jurisdiction to adjudicate federal preemption issues"].



Document received by the CA 1st District Court of Appeal.

the Court should conclude that the Railway has failed to demonstrate that it is subject to the jurisdiction of the STB, and thus, it is not "an STB-regulated common carrier."

## ARGUMENT

### I. MENDOCINO RAILWAY FORFEITED ITS ARGUMENT, ASSERTED FOR THE FIRST TIME ON APPEAL, THAT IT IS AUTOMATICALLY A PUBLIC UTILITY PURSUANT TO SECTION 3 OF ARTICLE XII OF THE CALIFORNIA CONSTITUTION.

The Railway contends on appeal that "[b]ecause [it] is an STB-regulated common-carrier, it is a public utility" under section 3 of Article XII of the California Constitution ("Article XII"). (Opening Br. 10, 15, 22.) The Railway did not raise this argument in the trial court and cannot raise it for the first time on appeal. (See *Greenwich S.F., LLC v. Wong* (2010) 190 Cal.App.4th 739, 767, citing *Ochoa v. Pacific Gas & Electric Co.* (1998) 61 Cal.App.4th 1480, 1488, fn. 3.)

The only constitutional provision raised in the trial court was section 19 of Article I, which provides the basic limitation that property may be acquired by eminent domain only for "public use." (See CT 773, 808-809, 1962, 2038; Cal. Const., art. I, § 19, subd. (a).)

There is no reference to Article XII in the Railway's complaint in eminent domain, its responses to Meyer's discovery requests, its trial brief or requests for judicial notice before trial, its closing trial brief, or any of its numerous motions after trial. (See CT 14 [Railway's Complaint in Eminent Domain, citing only Article I]; CT 42 [Railway's Request for Judicial Notice Before Trial of multiple Public Utilities Code sections, but no constitutional provisions]; CT 773 [Railway's Trial Brief citing



Document received by the CA 1st District Court of Appeal.

only Article I]; CT 1051, 1054, 1069, 1106-07, 1111-12 [Railway's responses to Meyer's special and form interrogatories, citing only to Article I, and not referencing any purported STB-regulated status under federal law]; CT 1962 [Railway's Closing Trial Brief, referring only to Article I, and with no constitutional provisions noted in the brief's table of authorities (CT 1957)]; CT 2044-49 [In a post-trial filing, the Railway cites only to Public Utilities Code sections in arguing STB's jurisdiction confers common carrier status, with not a single reference to the California Constitution].)

Specifically, in its Complaint in Eminent Domain ("Complaint"), which initiated the underlying case more than four years ago, the Railway described itself as follows, with only one reference to the California Constitution and no references to federal law provisions:

> Plaintiff MENDOCINO RAILWAY is now, and at all relevant times hereinafter stated was, a California railroad corporation organized and existing under the laws of the State of California and is authorized by law to exercise the power of eminent domain to acquire private property for public use pursuant to *California Constitution, Article I, § 19*; California Public Utilities Code §§ 229, 230, 611 and 7526(g): and California Code of Civil Procedure §§ Section 1230.010, et seq.

(CT 14, emphasis added.)

In response to Mr. Meyer's right-to-take objections, and particularly his contention that the Railway is not a public utility, the Railway cited to decisions of the CPUC and the definition of "public utility" under California law, and then

Document received by the CA 1st District Court of Appeal.

argued that its purported common carrier status under federal law preempts a finding that might interfere with its eminent domain power. (CT 781-82.) Still, the Railway did not raise Article XII as a basis for finding it is a California public utility due to its alleged federal railroad status. (*Id.*)

Even if the Railway had cited Article XII (which it did not), the Railway did not argue at any time during trial that its purported STB-regulated status conferred automatic public utility status on it under Article XII or California eminent domain law. In fact, when confronted with a 2022 letter from a CPUC attorney which specifically stated that the Railway "is not a public utility within the meaning of the California Constitution," the Railway's CEO and sole witness did not argue that its purported federal STB-regulated status automatically conferred public utility status pursuant to Article XII. (RT 677-78, referencing CT 1835-38.) Rather, the Railway's CEO asserted that that letter was merely the opinion of a CPUC staff attorney. (*Id.*)

Finally, in the Decision after Trial, Judge Nadel found that "[t]here was no designation of [the Railway]'s status by the STB offered by [the Railway]." (CT 2037.) This finding is the only reference in the Decision after Trial to the Railway's purported status under federal law.

As the Railway's argument that it is automatically a public utility under Article XII of the California Constitution due to its purported status as an "STB-regulated common carrier" was not argued before the trial court and is newly raised in this appeal,



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the Coastal Commission urges this Court to find that such argument was forfeited and should not be considered on appeal.[4]

## II. MENDOCINO RAILWAY'S STATUS UNDER FEDERAL LAW IS IRRELEVANT TO THE DETERMINATION OF ITS POTENTIAL ABILITY TO TAKE PROPERTY BY EMINENT DOMAIN UNDER CALIFORNIA LAW.

As an independent but related argument, the Coastal Commission urges the Court to refrain from making any determination regarding the Railway's status under federal law. Such determination is irrelevant to whether the Railway is entitled to take Meyer's property by eminent domain, and such federal law issues are much better addressed with the benefit of the more developed and targeted record in the pending Mendocino Action.

The right to eminent domain in California is exclusively rooted in state law. "The constitutional basis for eminent domain proceedings is section 19 of article I of the California Constitution." (*Robinson v. Superior Court of Kern County* (2023) 88 Cal.App.5th 1144, 1158.) "This constitutional provision does not identify *who* may take private property. As a result, the grant of authority to particular entities comes from the [California]

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[4] Because the Railway's new Article XII argument involves both a factual analysis regarding whether the Railway is, in fact, a common carrier under federal law, and a legal analysis whether such a determination would qualify it as a public utility for purposes of eminent domain under California law, the Court is well within its discretion to find that this argument was forfeited by the Railway. (*Greenwich S.F., LLC*, *supra*, 190 Cal.App.4th at p. 767 ["Moreover, the issue is one within [the court's] discretion, and we are not required to consider this new theory, even if it raised a pure question of law."].)



Document received by the CA 1st District Court of Appeal.

Legislature." (*Id*, emphasis in the original.) The California Legislature provided the scope and details of the right to eminent domain in 1975 through the "lengthy[] and detailed Eminent Domain Law." (*Property Reserve, Inc. v. Superior Court* (2016) 1 Cal.5th 151, 183; see Code Civ. Proc., §§ 1230.010-1274.17.)

Also in 1975, the Legislature added Article 7 of the Public Utilities Act to the California Public Utilities Code, describing the specific situations where a public utility, including that of a "common carrier," may exercise the power of eminent domain. (See Pub. Util. Code, § 610-626.) Section 620 of Article 7 specifically states that the definition of a "common carrier" for purposes of California eminent domain law is derived from Public Utilities Code section 211. (Pub. Util. Code, § 620.) Section 211 provides, in relevant part, that "common carrier" means "every person and corporation providing transportation for compensation to or for the public or any portion thereof, except as otherwise provided in this part." (Pub. Util. Code, § 211.)

Thus, to determine if the Railway is a "common carrier" or "public utility" with eminent domain powers, its status under federal law is irrelevant. As the trial court observed, the only relevant factors to the analysis of the Railway's potential public utility status are its actual operations in the State of California and whether it is providing "transportation" as that term has been interpreted under state law. (CT 2038-39; see also *City of St. Helena v. Public Utilities Com.* (2004) 119 Cal.App.4th 793, 802-03, disapproved of on other grounds by *Gomez v. Superior Court* (2005) 35 Cal.4th 1125.) The Railway cites no authority that

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supports its new argument on appeal that, because of its purported STB-regulated common carrier status under federal law, it is automatically a public utility under state law. (Opening Br. 10, 15.) Further, the Railway fails to explain how Article XII relates to California's Eminent Domain Law, the Public Utilities Code's definitions of "common carrier" and "public utility," or the general power of eminent domain found in Article I, section 19 of the California Constitution, because no such connection exists.

In fact, section 3 of Article XII of the California Constitution states the following, in full:

> Private corporations and persons that own, operate, control, or manage a line, plant, or system for the transportation of people or property, the transmission of telephone and telegraph messages, or the production, generation, transmission, or furnishing of heat, light, water, power, storage, or wharfage directly or indirectly to or for the public, and common carriers, are public utilities subject to control by the Legislature. The Legislature may prescribe that additional classes of private corporations or other persons are public utilities.

(Cal. Const., art. XII, § 3.)

The purpose Article XII, section 3 is to "confer[] broad authority on the Legislature to regulate public utilities." (*Hartwell Corp. v. Superior Court* (2002) 27 Cal.4th 256, 264; see also *BNSF Railway Co. v. Public Utilities Com.* (2013) 218 Cal.App.4th 778, 784.) It is not meant to be a back door for a tourist excursion train to declare itself a "public utility" with eminent domain powers because of its purported common carrier status under federal law, and the Railway cannot point to any authority that would support such a declaration.



Document received by the CA 1st District Court of Appeal.

The Railway's conclusory statements that it is an "STB-regulated common carrier" and thus a public utility under Article XII cannot circumvent the required public utility analysis under California's Eminent Domain Law. (Code Civ. Proc., §§ 1230.010-1274.17.) In particular, before the Railway may be declared a public utility, there must be an analysis regarding whether the Railway is providing "transportation" to the public pursuant to Public Utilities Code section 211, which would potentially make it a "common carrier" under California law. (Pub. Util. Code, § 211.)

## III. MENDOCINO RAILWAY IS NOT CONNECTED TO THE INTERSTATE RAIL NETWORK AND IS THEREFORE NOT AN STB-REGULATED COMMON CARRIER.

While the Railway's purported regulatory status under federal law is irrelevant to this Court's determination regarding its potential eminent domain powers under California law, its argument that it is an "STB-regulated common carrier" is also unsupported by the record. As it admits, the Railway's operations function entirely within the State of California. (Opening Br. 3.) And its single connection to another railroad and the interstate rail network has been embargoed and inoperative for more than 25 years. (Opening Br. 3-4; RT:334:28-335:14.) As such, the Railway is not connected to the interstate rail network, is not subject to regulation by the STB, and is not a common carrier under federal law. (*Friends of the Eel River v. North Coast Railroad Authority* (2017) 3 Cal.5th 677, 707 ["The STB's jurisdiction applies even to intrastate transportation so long as it is 'part of the interstate rail network.'"].) While the trial court did

Document received by the CA 1st District Court of Appeal.

not reach this issue, and this Court should not either for the reasons discussed in Parts IV.A and B above, the Railway's arguments on this point lack merit.

The Railway admits that its only potential connection to the interstate rail network is via the Northwestern Pacific Railroad (NWP) at Willits, which is controlled by the North Coast Railroad Authority (NCRA).[5] (Opening Br. 4.) Yet, that connecting NCRA line has been embargoed by the Federal Railroad Administration since 1998, six years before the Railway purchased the former California Western Railroad's (CWR) assets.[6] (Opening Br. 4; CT 1718 [Railway's Vice President's 2020 letter stating ". . . the NCRA's line has been closed for over 20 years, stranding Mendocino Railway's line from the national rail network . . ."]; see also RT 334:28-335:14, 336:2-7; 351:26-28.) At the time of the sale of the CWR's assets to the Railway in 2004, the U.S.

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[5] At the time of trial, NCRA controlled the use of the former NWP line, but it is the Commission's understanding that the Great Redwood Trail Agency has now taken control of that line. But because the record and parties' briefs only refer to NCRA and NWP, for the sake of clarity the Commission does the same in this brief.

[6] The Railway argues at length that the unusable NCRA line is still subject to STB jurisdiction, but provides no authority or evidence, if true, that such jurisdiction would automatically be conferred on the Railway itself. (Opening Br. 4-5.) In fact, the STB has found that the mere use of another railroad's section of rail physically connected to the interstate rail network is not sufficient to confer STB jurisdiction on a wholly intrastate railway. (*All Aboard Florida F Operations LLC & All Aboard Florida – Stations – Construction & Operation Exemption – in Miami, Fla. & Orlando, Fla.* (Dec. 21, 2012) 2012 WL 6659923 (S.T.B.) at p. *3.)



Document received by the CA 1st District Court of Appeal.

Bankruptcy Court further acknowledged that CWR no longer had a "direct connection to the rest of the country through the [NWP/NCRA] track," although CWR did have some arrangement with Amtrak at that time to use a separate Union Pacific mainline. (CT 1015.)[7]

Two years later, in a 2006 letter to the Railway, the Railroad Retirement Board (RRB) reconfirmed that "there has been no service for approximately ten years" over NCRA's line and that line is the Railway's only access to the interstate railroad system, access which, according to the RRB was "unusable." (CT 1917.) The RRB explicitly stated that the Railway "reportedly does not and cannot now operate in interstate commerce." (CT 1920.) Ostensibly in response to the RRB's 2006 letter, the Railway sent a letter in 2022 (sixteen years later, and a year and a half after filing its eminent domain complaint here) admitting that "it could not physically operate in interstate commerce," presumably due to the condition of NCRA's rail line. (CT 1921.) However, in asking the RRB to revisit its 2006 decision, the Railway admitted that "the NCRA line is currently inactive." (CT 1923.)

The Railway's own statements and the foregoing evidence lead to one conclusion: since its purchase of the CWR in 2004, the Railway has not been "a part of the interstate rail network" and not subject to the STB's jurisdiction. (See *Town of Atherton v.*

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[7] The Railway has produced no evidence that that arrangement with Amtrak is still in effect or that it has exchanged any passengers with Amtrak in the more than twenty years since it purchased CWR's assets in bankruptcy, and only used hypotheticals when discussing Amtrak at trial. (RT 703:1-8.)



Document received by the CA 1st District Court of Appeal.

*California High-Speed Rail Authority* (2014) 228 Cal.App.4th 314, 330 ["The STB has jurisdiction over transportation by rail carrier that is within the same state if it is 'part of the interstate rail network'"], citing 49 U.S.C. § 10501, subd. (a)(1)(A) & (2)(A); see also *RLTD Ry. Corp. v. Surface Transp. Bd.* (6th Cir. 1999) 166 F.3d 808, 814 [agreeing with the STB that it "loses jurisdiction over a line once it becomes severed from the interstate rail system"].)

The Railway cannot point to any evidence that the STB has actually asserted its jurisdiction over the Railway's wholly intrastate operation at any point in the more than 20 years since it purchased the CWR's assets. And tellingly, the Railway's own CEO conceded that the Railway did not perform any common carrier services between 2004 and 2022. (See RT 866:6-11.) As such, its claim that it is an "STB-regulated common carrier" is not supported by the record. In the end, the Railway has failed in what appears to be a last-ditch attempt to assert that its purported, yet irrelevant, STB regulation status has any bearing on the eminent domain proceedings here.

The Railway, in its Reply Brief, attempts to analogize its situation to those of its predecessor CWR and to distinguish the express statements of the STB and RRB maintaining that the Railway is not performing common carrier services and is not connected to the interstate rail network. (Mendocino Railway's Reply Brief 9-18, 26-30.) (See also CT 1341, 1918-20.) But these attempts come up short. As discussed above, the Railway cannot point to any evidence in the record that the STB in fact

Document received by the CA 1st District Court of Appeal.

recognizes it as a "common carrier" or that it has ever performed services as a part of the interstate rail network.

The simple fact is that the Railway is a wholly intrastate tourist excursion railroad akin to the Napa Valley Wine Train that this court found was not a common carrier and not a public utility because it does not provide "transportation" under California law. (*City of St. Helena supra,* 119 Cal.App.4th at p. 804.) This Court need not go beyond that same analysis or consider the Railway's unsupported and irrelevant argument regarding its purported status under federal law.

## CONCLUSION

The judgment of the trial court should be affirmed.

Respectfully submitted,

ROB BONTA
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*Supervising Deputy Attorney General*

/s/ *Patrick Tuck*
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*California Coastal Commission*

January 28, 2025

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## CERTIFICATE OF COMPLIANCE

I certify that the attached "Application to File Amicus Curiae Brief" and "Amicus Curiae Brief by the California Coastal Commission "uses a 13 point Century Schoolbook font and contains 3912 words.

ROB BONTA
*Attorney General of California*

/s/ *Patrick Tuck*
PATRICK TUCK
*Deputy Attorney General*
*Attorneys for Amicus Curiae*
*California Coastal Commission*

January 28, 2025

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**DECLARATION OF ELECTRONIC SERVICE**

Case Name: **Mendocino Railway v. John Meyer**

Case No.: **A168497 (consolidated with A168959)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collecting and processing electronic correspondence. Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically. Participants in this case who are not registered with TrueFiling will receive hard copies of said correspondence through the mail via the United States Postal Service or a commercial carrier.

On January 28, 2025, I electronically served the attached **APPLICATION OF THE CALIFORNIA COASTAL COMMISSION FOR LEAVE TO FILE AMICUS CURIAE BRIEF IN SUPPORT OF RESPONDENT JOHN MEYER** by transmitting a true copy via this Court's TrueFiling system, addressed as follows:

| | | |
|---|---|---|
| Glenn Lawrence Block<br>California Eminent Domain Law Group<br>3429 Ocean View Blvd Ste L<br>Glendale, CA 91208-1572<br><br>glb@caledlaw.com<br><br>*Attorney for Appellant Mendocino Railway* | Paul J. Beard, II<br>Pierson Ferdinand LLP<br>453 S. Spring Street<br>Suite 400-1458<br>Los Angeles, CA 90013<br><br>paul.beard@pierferd.com<br><br>*Attorney for Appellant Mendocino Railway* | Stephen F. Johnson<br>Mannon King & Johnson<br>200 North School Street, Suite 304<br>PO Box 419<br>Ukiah, CA 95482<br><br>steve@mkjlex.com<br><br>*Attorney for Respondent John Meyer* |



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In addition, On January 28, 2025, pursuant to California Rules of Court, Rule 8.212(c)(1), I electronically served the above-mentioned document by transmitting a true copy via email to the clerk of the Mendocino County Superior Court addressed as follows:

- Superior Court: appeals@mendocino.courts.ca.gov

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct, and that this declaration was executed on January 28, 2025, at Los Angeles, California.

| Valerie Thompson | /s/ *Valerie Thompson* |
|---|---|
| Declarant | Signature |

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