

**CALIFORNIA COASTAL COMMISSION**

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November 5, 2021

**VIA EMAIL AND U.S. MAIL**

The Honorable Carlos Monje  
Under Secretary  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, D.C. 20590

Re: Mendocino Railway RRIF Loan Application

Dear Under Secretary Monje:

The California Coastal Commission (Commission) recently learned of the Mendocino Railway's application for a Railroad Rehabilitation & Improvement Financing loan. Based on the information currently available to the Commission, we believe that the decision to grant such a loan would be subject to the Commission's review under the Coastal Zone Management Act (CZMA) of 1972, 16 U.S.C. § 1456(c)(1), and that federal consistency review must take place before the loan can be approved. We would appreciate the opportunity to discuss the federal consistency review issues with the U.S. Department of Transportation prior to loan approval.

The CZMA creates a federal and state partnership for management of coastal resources. California's Coastal Management Program was certified in 1977, and the enforceable policies of that document are the policies in Chapter 3 of the California Coastal Act of 1976 (Cal. Pub. Res. Code §§ 30200 *et seq.*). Since 1977, the Commission has implemented the CZMA by exercising its review authority over proposed federal activities (including proposals to support private projects using federal funding), federal development projects, federal permits and licenses, and federal support to state and local governments.<sup>1</sup> Thus, all federal agency activities affecting California's coastal zone must be consistent to the maximum extent practicable with Chapter 3 of the Coastal Act.

As explained in greater detail in the November 4, 2021 letter to you from the North Coast Railroad Authority (NCRA), there are a number of potential adverse environmental impacts to

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<sup>1</sup> A federal agency activity is any function performed by or on behalf of a federal agency in the exercise of its statutory responsibilities. Although there are separate regulations governing the issuance of a federal license or permit and the granting of federal assistance to a state or local agency, so that those types of actions are not treated under the general heading of "a federal agency activity" requiring a consistency determination (CD), the decision to allocate federal funds to construct a private facility is a federal agency activity that triggers the Commission review authority. (See, e.g., CD 038-11, submitted by the National Marine Fisheries Service for funding construction of a fish processing facility <https://documents.coastal.ca.gov/reports/2011/10/F5b-10-2011.pdf>). Subsection (a) and (c) of 15 CFR § 930.31 specifically acknowledge that "federal agency activity" trigger covers a residual category of federal actions not covered under subparts D, E or F of Part 930.

California's coastal resources anticipated from approval of Mendocino Railway's loan application. NCRA's letter explains how the loan could facilitate the Mendocino Railway's attempt to submit an Offer of Financial Assistance to the Surface Transportation Board in an effort to prevent the legislatively required rail banking of the NCRA's rail line and conversion of that line to the Great Redwood Trail.

Should the Mendocino Railway successfully prevent such rail banking and attempt to rehabilitate NCRA's rail line, we anticipate significant adverse impacts on coastal resources that are required to be protected under the Coastal Act. For example, portions of the rail line are expected to be used as critical links in the California Coastal Trail,<sup>2</sup> and the loss of those sections would be inconsistent with Coastal Act sections 30210, 30211 and 30213. In addition, the rail line is on or adjacent to wetlands and environmentally sensitive habitat areas, both required to be protected under the Coastal Act. (Cal. Pub. Res. Code §§ 30233 and 30240). The rail line is also expected to be vulnerable to sea level rise and other coastal hazards; thus full rehabilitation of the rail line and use for rail service would be inconsistent with Coastal Act section 30253.

Even if the proposed loan would do no more than allow repair of the inoperable portions of the Mendocino Railway's existing line from Fort Bragg to Willits, we believe that this would have an adverse affect on the California coastal zone, also requiring review under the CZMA. It would increase the intensity of use of this line, including impacts on the Mendocino Railway's existing support facilities located in the coastal zone in the City of Fort Bragg and facilitating expansion plans the Mendocino Railway has discussed with Commission staff and City officials involving the extension of the railway from its current terminus along the coastal highway in the center of the City to and along the bluff edge to a proposed new train station that would have additional impacts on coastal zone resources. As proposed, the 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 California Coastal Trail, creating 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. We do not have sufficient information at this time to fully assess the scope of impacts of such a project on California's coastal zone. Such assessment would be undertaken at the time of the Commission's federal consistency review.

In sum, the Commission has had little time to understand the scope of the proposed use of the loan and its potential impacts on the coastal zone. Based on what we understand at this time, however, we believe that the funding provided to the Mendocino Railway will have a reasonably foreseeable effect on California's coastal zone resources. We therefore believe that it is subject to the Commission's review authority under the CZMA. We respectfully request the opportunity

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<sup>2</sup> For background, see: <https://scc.ca.gov/projects/california-coastal-trail/>

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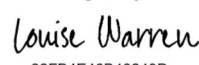
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to discuss the loan, as well as the Commission's authority under the CZMA, with the U.S. Department of Transportation at its earliest convenience.

Please contact me at: [Louise.Warren@coastal.ca.gov](mailto:Louise.Warren@coastal.ca.gov) or 415-904-5227 to discuss these issues or if you have any questions.

Sincerely,

DocuSigned by:  
  
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Louise Warren  
Chief Counsel

cc: Amit Bose, Federal Railroad Administration, Administrator  
Morteza Farajian, Build America Bureau, Executive Director  
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