



U.S. Department
of Transportation

**Federal Railroad
Administration**

April 19, 2024

1200 New Jersey Avenue, SE
Washington, DC 20590

Ms. Kate Huckelbridge
Executive Director
California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA 94105

Dear Ms. Huckelbridge:

I am writing to inform you that the Federal Railroad Administration (FRA) has reviewed the California Coastal Commission's (Commission) objection to FRA's negative determination, submitted on January 12, 2024, for the Mendocino Railway Rehabilitation Project and has determined that the project will not result in reasonably foreseeable effects to coastal resources or uses of the coastal zone. FRA is notifying the Commission that the U.S. Department of Transportation's (USDOT) Build America Bureau (Bureau) will disburse federal funds to Mendocino Railway to complete project activities.

Background

In January 2024, Mendocino Railway was approved for a loan through the USDOT's Railroad Rehabilitation and Improvement Financing (RRIF) Express Program (RRIF Express), which is administered by the Bureau.¹ The RRIF Program provides direct loans and loan guarantees to finance development of railroad infrastructure, including improving or rehabilitating existing railroad infrastructure, such as track, bridges, and components of track. The RRIF Express Program expanded the ability of short line and regional railroad borrowers, such as Mendocino Railway, a Class III Surface Transportation Board licensed carrier, to access RRIF Program funds. The loan funds track and tie replacement and maintenance work along the Mendocino Railway line that extends from Willits, CA to Fort Bragg, CA. As part of FRA's analysis of project activities under the National Environmental Policy Act, FRA considered whether the project would result in effects to coastal resources or uses of the coastal zone, consistent with the Coastal Zone Management Act (CZMA). FRA determined that due to the nature and scope of the project (i.e., maintenance along an existing rail line), the project would not result in reasonably foreseeable effects to coastal uses or resources of the coastal zone. FRA documented its determination of no effect in a categorical exclusion worksheet.²

In January 2024, the Commission's staff contacted FRA and the Bureau regarding the status of the loan. The Bureau advised the Commission that the loan was approved, and FRA provided a copy of its categorical exclusion worksheet to the Commission's staff on January 12, 2024,

¹ <https://www.transportation.gov/buildamerica/financing/rrif/rrif-express>.

² In the categorical exclusion worksheet, FRA also documented its review of the State's enforceable policies.



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which documented FRA’s finding of no effect. On February 13, 2024, FRA and Commission agreed to an alternative notification schedule, and that FRA’s categorical exclusion worksheet, submitted on January 12, would be considered a negative determination for the project. FRA agreed that no disbursements on the loan would be made while the Commission reviewed the negative determination, consistent with 15 CFR 930.35. On February 25, 2024, the Commission requested a 15-day extension to review the negative determination, which FRA granted.

On March 14, 2024, the Commission held a public hearing on the negative determination to solicit feedback from the public and other stakeholders on the Commission’s proposed objection FRA’s negative determination. On March 26, 2024, the Commission objected to FRA’s negative determination and requested that FRA submit a consistency determination based on the Commission’s determination that the project would result in reasonably foreseeable effects on coastal resources. In April, FRA met with the Commission’s staff to discuss the Commission’s objection.

Finding of No Reasonably Foreseeable Effect

FRA has reviewed the Commission’s objection and considered additional information provided by the Commission in its assessment of effects, and for the reasons discussed in this section, FRA has determined the project will not result in reasonably foreseeable effects on coastal uses or resources of the coastal zone.

The Commission’s objection identifies a broad range of general effects:

- “degrading water quality and the biological productivity of coastal waters, streams and estuaries;
- putting at risk sensitive coastal species and habitats due to degraded water quality and hazardous materials;
- adversely affecting wildlife movement and habitat use through the installation of fencing along the rail line from Fort Bragg to Willits; and
- disturbing wildlife and habitats due to the noise, lights and vibrations that would be generated during train operation.”³

The term “effect on any coastal use or resource” means any reasonably foreseeable effect on any coastal use or resource resulting from a federal agency activity. 15 CFR 930.11(g). The RRIF Express loan funds several railroad rehabilitation and maintenance activities that will occur on Mendocino Railway’s existing rail line and within the railroad right-of-way. FRA’s

³ California Coastal Commission’s Objection to FRA’s Negative Determination, dated March 26, 2024 (Objection), pg. 6.



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determination that no reasonably foreseeable effects on coastal uses or resources will occur from the project activities is based on the following:

*Tie Replacement*⁴

As described in the categorical exclusion worksheet, and in the scope of work provided to the Commission on March 7, 2024, the project includes the replacement of approximately 32,100 of the approximately 130,000 railroad ties along the 40-mile corridor. Old ties will be mechanically removed using on-track machinery (tie inserter) to grab the end of the tie and pull it from under the rails. New ties will be mechanically installed using an on-track tie inserter. Machinery will operate on existing rail and will not result in any grading or nearby ground disturbance. Old ties will be placed into a dumpster after being removed from the railbed and will be disposed of properly per state and local regulations. The Commission asserts that the removal of railroad ties would result in a reasonably foreseeable effect due to the potential “discharge of treated-wood pieces, fragments and sawdust into coastal waters.”⁵ The Commission also acknowledges that “the sawdust, wood pieces and fragments ... is expected to be relatively small,” but “cumulatively significant” given the number of ties proposed to be removed.⁶ However, the removal of ties with a tie inserter will not result in the discharge of treated wood-pieces, fragments and sawdust into coastal waters, including the Noyo River and Pudding Creek, as all activities related to the tie replacement will occur within the existing railroad right-of-way, and the replacement process does not require activities that would generate sawdust. In addition, Mendocino Railway will have personnel on site monitoring the removal and installation of the ties.

In addition to the Best Management Practices (BMPs) described in the categorical exclusion worksheet, FRA will require:

- **CZBMP #1: Railroad will monitor for debris and wood pieces and (if identified) will immediately remove them from the site and dispose of them in accordance with applicable waste management laws.**
- **CZBMP #2: Railroad will dispose of ties in accordance with applicable waste management laws and will not leave ties onsite following removal. Ties must be removed from the site the day they are removed.**

In addition, the Commission asserts that the discharge of CCA chemicals and treated-wood debris into Pudding Creek and the Noyo River would degrade the water quality of these streams, including downstream in the coastal zone and affect aquatic life within them. The

⁴ The project also includes the replacement of 2,150 sticks of rail, which was not raised as a specific concern in the Commission’s objection. FRA notes the replacement of rail will occur on the rail line and removed sticks of rail will be removed from the site and disposed.

⁵ Objection, pg. 7.

⁶ Objection, pg. 7.



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Commission identifies several aquatic species of concern that are sensitive to these chemicals, even at low concentrations. However, there are currently approximately 130,000 rail ties along the 40-mile line, which Mendocino understands were installed over two decades ago by a prior owner, and the project will not increase the number of ties along the existing rail corridor. Based on the Commission's concerns, this project may have the beneficial effect of reducing the likelihood that older worn ties could leach creosote into the railbed as they degrade.

In addition to the BMPs described in the categorical exclusion worksheet, FRA will require:

- **CZBMP#3: During inspection of worn or damaged ties, Railroad will also inspect ties and surrounding areas for evidence of leaching out of the ties, and if present will replace such ties.**

Sediment and Turbidity

The Commission asserts that the project includes "extensive construction activities" that may result in "substantial amounts of sediment" into Pudding Creek and the Noyo River.⁷ The Commission notes that such discharge of sediment would "generate turbidity plumes and/or fill pools and aquatic refugia with heavy sediment. Such effects would impair coastal water quality downstream, degrade or damage in-stream and riparian habitat, and smother aquatic species."⁸

However, the project does not include any extensive construction activities and is limited to maintenance/rehabilitation of the existing rail line and infrastructure. The project does not involve construction of new infrastructure, but instead rehabilitates existing infrastructure within the railroad right-of-way. The Commission asserts that the tie removal process will generate significant ground disturbance; however, as discussed above, the tie removal process will occur on the rail line through the use of a tie inserter machine. This process is not likely to disturb soils beneath the ballast – and will not generate "substantial amounts" of sediment that can flow into nearby waterways. The Commission also states the project includes "the excavation of the partially collapsed railroad tunnel and subsequent installation of replacement supports and reinforcement."⁹ The project does not include excavation of the tunnel, but includes restoring the entrance to the west tunnel portal and stabilizing the inside of the tunnel, including making repairs to 50-60 structurally impaired sets, which are wooden support beams inside the tunnel and modernizing other sets inside the tunnel. These activities will occur inside the tunnel and any minor debris or materials from this work will be reintegrated into the tunnel for stabilization or removed. Mendocino Railway will install temporary erosion and sediment control measures which will prevent any transfer of sediment. In addition, stabilization and

⁷ Objection, pgs. 11-12.

⁸ Objection, pg. 12.

⁹ Objection, pg. 11.



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rehabilitation of the tunnel will prevent further sediment discharge into the environment that may have resulted from the tunnel collapse. The Commission also states the project includes “the creation and installation of four railroad sidings (shorter lengths of rail line constructed parallel to the main line);”¹⁰ however, the project will only rehabilitate and repair previously existing sidings along the line and does not involve the construction of new sidings. Similarly, the Commission states the project includes “installation of electrical utilities ... which may involve extensive subsurface drilling to install up to 1,600 power poles.”¹¹ The project does not include installation of new power poles – and does not include subsurface drilling for installation. The project includes maintenance of existing power infrastructure, such as replacing worn boxes and cables. The Commission also states the project includes “construction or clearing of maintenance walkways and paths along the entire railroad length.”¹² The project does not include construction of any new walkways – but does include routine clearing and maintenance of existing walkways (i.e., removing debris and vegetation). Finally, the Commission states the project includes “installation of footings and supports for the security fencing and cameras proposed to be installed along the line from Fort Bragg to Willits.”¹³ The project does include installing of portions of fencing along the rail line where existing fencing has been damaged or displaced or where trespassing is an issue and the installation of security cameras, which would not affect coastal uses or resources by affecting access to coastal resources or resulting in the discharge of sediment into coastal waters, including the Noyo River and Pudding Creek.

In addition to the BMPs described in the categorical exclusion worksheet, FRA will require:

- **CZBMP#4: When clearing walkways, Railroad will not conduct activities, such as blowing, that could generate dust or sediment near water resources.**
- **CZBMP#5: For materials, such as sticks of rail, that the Railroad will not reuse or sell for scrap, Railroad will remove materials from the site and recycle/dispose of sticks of rail.**
- **CZBMP#6: Railroad will remove all discarded materials from the tunnel via railcar and dispose of discarded materials in the proper location based on material type.**

¹⁰ Objection, pg. 11.

¹¹ Objection, pg. 11.

¹² Objection, pg. 11.

¹³ Objection, pg. 11.



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- **CZBMP#7: In areas where project component activities will occur near water resources, Railroad will employ BMPs as described in Attachment A.**

The project does not include the extensive construction activities identified by the Commission. The project activities funded by the RRIF Express loan will not result in a reasonably foreseeable effect on coastal resources or uses. In addition, the use of BMPs, including the additional BMPs identified in this letter, will further ensure that project activities do not result in any reasonably foreseeable effects from sedimentation and erosion.

Air Pollutants

The RRIF Express loan does not fund the acquisition or operation of locomotives that would generate the air quality effects referenced in the Commission’s objection. The loan does not fund activities to expand the rail line, but instead funds needed maintenance work along the line. As such, the project will not result in any new emissions of criteria pollutants that could result in a reasonably foreseeable effect on coastal uses or resources.

Herbicides

The Commission asserts that “[e]xtensive and ongoing use of herbicide” is likely to occur as a result of the RRIF Express loan.¹⁴ The RRIF Express loan does not fund activities related to the use of herbicides within or along the railroad right-of-way. Mendocino Railway is required to comply with FRA’s safety regulations, which require that vegetation on railroad property be controlled to avoid potential affects to railroad safety. However, the RRIF Express loan does not require Mendocino Railway to use herbicides along the rail line.

Spills

The Commission asserts that if “a derailment were to occur along the rail line, the effect on the environment could be significant, due to the line’s location in close proximity to protected riparian areas for the majority of its length.”¹⁵ The Commission cites to a recent Time Magazine article that notes that “the FRA reported an average of 1,475 train derailments per year between 2005 and 2021.”¹⁶ This same article; however, notes “[d]espite the relatively high number of derailments, they rarely lead to disaster.”¹⁷ Although FRA broadly construes reasonably foreseeable effects under the CZMA, the remote possibility of an incident that results in the types of effects described in the Commission’s objection is not reasonably foreseeable. In addition, this maintenance and rehabilitation project – which is intended to

¹⁴ Objection, pg. 13.

¹⁵ Objection, pg. 14.

¹⁶ Objection, pg. 14.

¹⁷ [Why Train Derailments Are More Common Than You Think | TIME \(cited in Objection, pg. 14\).](#)



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bring the rail line to a state of good repair – will support needed maintenance throughout the entire rail line and lessen the likelihood of derailments.

Conclusion

For the reasons stated above, FRA has determined the project will not result in reasonably foreseeable effects on costal resources or uses of the coastal zone. FRA has considered the Commission’s objection in making this determination and in response to the Commission’s objection, FRA is requiring the use of additional BMPs, as described in this letter, and is clarifying that the use of BMPs is a condition of the Bureau’s loan. FRA appreciates the Commission’s interest in the project and the information provided to inform FRA’s consideration of costal effects.

Stephanie B. Perez, PG

Chief, Environmental Review Division
Federal Railroad Administration, USDOT

Enclosure: Attachment A: *Erosion and Sediment Control BMPs*

Cc (via email):
Cassidy Teufel, Deputy Director, California Coastal Commission



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Attachment A: Erosion and Sediment Control BMPs

The following Erosion and Sediment Control Best Management Practices (BMPs) are also included in the California Stormwater Quality Association's ("CASQA") Municipal and Construction Stormwater BMP Handbooks as suggested measures for erosion and sedimentation where there is potential for soil disturbance, and it is determined necessary based on the Mendocino Railway scope of work being performed. Mendocino Railway will apply the erosion and sedimentation control BMPs below as appropriate.

Scheduling

- Avoid heavy rainy periods. Schedule grading operations during dry months when practical and avoid major soil disturbance during periods with high wind velocities.

Silt Fence

- If soil disturbing activities are scheduled when rainfall is predicted, deploy a silt fence below areas where sheet flow discharges from the work area as a sedimentation control. Fiber rolls, gravel bag berms, manufactured linear sediment controls, compost socks and berms, and biofilter bags may also be used for a similar purpose.

Fiber Rolls

- Fiber rolls (also known as wattles or logs) are placed at the toe and on the face of slopes along contours where necessary to intercept runoff, reduce its flow velocity, release the runoff as sheet flow, and provide removal of sediment from the runoff. By interrupting the length of a slope, fiber rolls can also reduce sheet and rill erosion until vegetation is established. If used in a permanent application, select a fiber roll wrapped in non-plastic material.

Outdoor Storage of Raw Materials

- For small stockpiles, cover and contain the stockpiles of raw materials as necessary to prevent stormwater from running into the covered piles. Cover material when working with the stockpiles is not occurring. If stockpiles are too large to be feasibly covered and contained, implement erosion control practices at the perimeter of the work area and at catch basins to prevent erosion offsite.

Housekeeping Practices

- Keep work sites clean and orderly. Remove debris in a timely fashion.

Landscape Maintenance

- Avoid loosening the soil when conducting mechanical or manual weed control, which could lead to erosion. Use mulch or other erosion control measures as necessary when soils are exposed.



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- To the extent compatible with FRA requirements for track maintenance, perform mowing at optimal times. Mowing should not be performed if significant rain events are predicted.
- Place temporarily stockpiled material away from watercourses, and berm or cover stockpiles as necessary to prevent material releases to storm drains or waterways. Do not mix or prepare pesticides for application near storm drains or waterways.
- To the extent compatible with FRA requirements for pesticide application, calibrate fertilizer and pesticide application equipment to avoid excessive application. Prepare the minimum amount of pesticide needed for the job and use the lowest rate that will effectively control the pest. Do not apply pesticides if significant rain is expected. Apply pesticides only when wind speeds are low (less than 5 mph).