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10 Attorneys for Plaintiff,
11 SIERRA NORTHERN RAILWAY and
12 MENDOCINO RAILWAY

13 **UNITED STATES DISTRICT COURT**

14 **NORTHERN DISTRICT OF CALIFORNIA – OAKLAND DIVISION**

15 SIERRA NORTHERN RAILWAY, a
16 California corporation, and MENDOCINO
17 RAILWAY, a California corporation,

18 Plaintiffs,

19 vs.

20 CITY OF FORT BRAGG, and DOES 1
21 through 25, inclusive,

22 Defendants.

Case No.: 4:24-cv-04810-JST

**JOINT CASE MANAGEMENT
STATEMENT**

Date: July 8, 2025

Time: 2:00 pm

Dept: 6

Judge: Honorable Jon S. Tigar

Complaint Filed: August 7, 2024

1 **I. JURISDICTION AND SERVICE**

2 This Court has jurisdiction over this action based on the claims alleged under federal law
3 pursuant to 28 U.S.C. § 1331, and supplemental jurisdiction over the state law claims pursuant to 28
4 U.S.C. § 1367. Plaintiffs have asserted a takings claim under the Due Process Clause of the Fifth and
5 Fourteenth Amendments to the U.S. Constitution through 42 U.S.C. § 1983 as well as supplemental
6 state law claims. The operative Second Amended Complaint also alleges claims under the
7 Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”). Defendant
8 was served on September 9, 2024.

9 **II. FACTS**

10 Plaintiff Sierra Northern Railway (“SNR”) owns the property at issue in this lawsuit
11 (“Property”) located in Fort Bragg, California, which contains the water body commonly known as
12 “Mill Pond,” and also referred to as “Pond 8.” Mill Pond receives stormwater that enters the pond via
13 sheet flow and via the Alder Creek and Maple Creek outfalls, located in the eastern section of the
14 pond. Plaintiffs have alleged that the City has, on a continuing and on-going basis, discharged, and
15 continues to discharge municipal stormwater into Mill Pond. The Department of Toxic Substances
16 Control (“DTSC”) has issued a Site Investigation and Remediation Order for Mill Pond.

17 Stormwater quality within the Mill Pond drainage basin has been evaluated over multiple
18 sampling efforts. The reports show, among other things, that stormwater entering Mill Pond contains
19 dioxins and furans; the vast majority of pollutants entering Mill Pond have been brought onto the
20 Property via stormwater flows from the City’s stormwater system. Plaintiffs have engaged in no
21 activities that have generated any of these pollutants.

22 Plaintiffs further contend that the City is intentionally using the Mill Pond as a detention basin
23 for the storage and treatment of its toxic, hazardous, and contaminated stormwater discharges.
24 Plaintiffs also contend that the City has failed to take any remedial measures to address this problem.

25 The City does not agree with or concede any of Plaintiffs’ allegations, contentions, or
26 conclusions.

27 Attempts to resolve this with the City without litigation were unsuccessful.

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III. LEGAL ISSUES

The principal disputed legal issues are whether the City is liable for any of its stormwater discharges onto the Property, and for remediation costs at the Subject Property.

IV. MOTIONS

On January 6, 2025, the City filed a motion to dismiss Plaintiffs' CERCLA claims, which remains pending as of this date. The City may also seek summary disposition at a later date.

V. AMENDMENT OF PLEADINGS

The parties do not currently contemplate amending their pleadings. However, Plaintiffs requested leave to amend the Second Amended Complaint should the Court, notwithstanding Plaintiffs' opposition to the City's motion to dismiss, perceive any deficiencies in Plaintiffs' CERCLA claims, as currently framed.

VI. EVIDENCE PRESERVATION

The Parties certify that they have reviewed the Guidelines Relating to the Discovery of Electronically Stored Information ("ESI Guidelines"), and confirm that the parties have met and conferred pursuant to Fed. R. Civ. P. 26(f) regarding reasonable and proportionate steps taken to preserve evidence relevant to the issues reasonably evident in this action.

VII. DISCLOSURES

The Parties are scheduled to make their initial disclosure on July 1, 2025.

VIII. DISCOVERY

The parties have been engaged in settlement discussions aimed at a global resolution of all disputes presently pending between them. Accordingly, they deferred making their initial disclosures, and taking discovery in this case. After failing to make substantial progress toward a global settlement though the settlement discussions held in the cases referenced in Section X below, the Parties will begin exchanging written discovery, followed by deposition pertinent fact witnesses. Particular discovery disputes are not anticipated at this time, and the parties anticipate being able to meet and confer on any ordinary discovery disputes.

IX. CLASS ACTIONS

Not applicable.

X. RELATED CASES

There are no cases that are “related” in the strict sense. However, Mendocino Railway is currently adverse to the City of Fort Bragg in two pending matters: *City of Fort Bragg v. Mendocino Railway*, Mendocino County Superior Court, Case No. 21CV00850; *Mendocino Railway v. Ainsworth*, U.S. Dist. Ct., N.D. Cal., Case No. No. 4:22-cv-04597-JST (currently on appeal).

XI. RELIEF

Plaintiffs seek: (1) damages for costs incurred and to be incurred for the investigation, removal, remediation and/or other mitigation of the contamination or damage to the Property and Mill Pond; (2) an order requiring the City to take such action as may be necessary to remediate and/or to remove all contamination at the Property and Mill Pond caused or conveyed by the City; (3) an order enjoining the City from taking any action(s) that would materially interfere with Plaintiffs’ use and enjoyment of the Property and/or Mill Pond, including to cease and desist from continuing to discharge contaminated and polluted stormwater onto the Property; (4) monetary relief on their takings, nuisance, trespass, inverse condemnation, and negligence claims; (5) a declaratory judgment under CERCLA § 113(g)(2), 28 U.S.C. §§ 2201 and 2202, and/or state law that some or all future costs of removal and/or remedial action incurred by Plaintiffs in response to releases caused by the City are costs for which the City must reimburse Plaintiffs, including the incremental cost of any City-mandated “truck and dump” remediation method, and that Plaintiffs’ proposed remediation plan for Pond 8 is consistent with the National Contingency Plan.

XII. SETTLEMENT AND ADR

The Parties are agreeable to holding a private mediation session; and, if mediation is unsuccessful, to participating in a settlement conference to be held shortly after the Parties’ proposed expert witness disclosure deadline, or approximately 75 days before trial.

XIII. OTHER REFERENCES

The case is not suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

XIV. NARROWING OF ISSUES

The parties have not identified any specific proposal to narrow the issues in dispute.

XV. SCHEDULING

The City proposes that the Case Management Conference be deferred until 30 days after the Court issues its ruling on the City's pending motion to dismiss. Plaintiff contends that, because the motion to dismiss targets only Plaintiffs' CERCLA claims, the Case Management Conference proceed as currently scheduled.

The Parties stipulate that the Expert Witness Disclosure deadline should be set for 120 days before trial, with rebuttal reports due 45 days before trial. Other than those modifications, the Parties have no other proposed modifications to the standard time frames specified in the Federal Rules of Civil Procedure.

XVI. TRIAL

Given the complexity of the case, and the need to conduct substantial discovery, the Parties request that the trial date be set at least 24 months after the Case Management Conference.

XVII. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS

The Parties have each filed a "Certification of Interested Entities or Persons" as required by Civil Local Rule 3-15.

XVIII. PROFESSIONAL CONDUCT

All attorneys of record for the parties have reviewed the Guidelines for Professional Conduct for the Northern District of California.

XIX. OTHER MATTERS

There are no other matters, beyond what is noted above, that would facilitate the just, speedy and inexpensive disposition of this matter.

Dated: June 24, 2025

weintraub tobin chediak coleman grodin
LAW CORPORATION

By: /s/ David A. Diepenbrock
David A. Diepenbrock
Attorneys for Plaintiffs
SIERRA NORTHERN RAILWAY and
MENDOCINO RAILWAY

1 DATED: June 24, 2025

EDLIN GALLAGHER HUIE & BLUM

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3 By: /s/ Marilyn Jenkins as authorized on 6/23/25
4 Marilyn Jenkins, Esq.
5 Attorneys for Defendant
6 CITY OF FORT BRAGG
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