

BAKER & MILLER PLLC

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William A. Mullins

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wmullins@bakerandmiller.com

June 14, 2022

304757

VIA E-FILING

Cynthia T. Brown
Chief of the Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001

ENTERED
Office of Proceedings
June 14, 2022
Part of
Public Record

Re: North Coast Railroad Authority – Abandonment Exemption – In Mendocino, Trinity, and Humboldt Counties, Cal., AB-1305X.
Petition to Toll Date an Offer of Financial Assistance Must Be Filed

Dear Ms. Brown:

Mendocino Railway (“MR”) hereby files, via e-filing, its “Petition to Toll The Date That An Offer of Financial Assistance Must Be Filed” If there are any questions concerning this e-filing, please contact me by telephone at (202) 663-7823 or by e-mail at wmullins@bakerandmiller.com.

Sincerely,

/s/ William A. Mullins

William A. Mullins
Attorney for Mendocino Railway

Enclosures

cc: Parties of Record

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB 1305X

**NORTH COAST RAILROAD AUTHORITY – ABANDONMENT EXEMPTION – IN
MENDOCINO, TRINITY, AND HUMBOLDT COUNTIES, CA**

**MENDOCINO RAILWAY’S PETITION TO TOLL THE DATE THAT AN OFFER OF
FINANCIAL ASSISTANCE MUST BE FILED**

Mendocino Railway, (“MR” or “Petitioner”) herewith files this Petition to Toll the Date that an Offer of Financial Assistance Must be Filed By (“Petition”), and for reasons states:

1. On May 20, 2022, the Surface Transportation Board (“Board”) served notice that the North Coast Railroad Authority (“NCRA”) had filed an abandonment notice of exemption to abandon 175.84 miles of rail line situated in Mendocino, Trinity, and Humboldt Counties, Cal, which NCRA and line is the subject matter of the above-entitled proceeding (“Line”)
2. In the Board’s May 20, 2022, decision, the Board stated that formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27 would be due by May 31, 2022.
3. On May 31, 2022, MR, pursuant to the applicable regulations of the Board, filed its formal expression of its intent to file an OFA to purchase a small segment of the Line and provided information to demonstrate that it was a preliminarily financially responsible party (“OFA Notice”).
4. On May 31, 2022, MR also sent a letter consistent with 49 C.F.R. § 1152.27(a) requesting the information required for formulating and submitting an OFA (“OFA Letter”). A copy of the OFA Letter was attached to the OFA Notice filed with the Board. MR cannot prepare an informed OFA without first reviewing the information MR requested.
5. On May 31, 2022 the OFA Notice and the OFA Letter were served on Charles H. Montange, counsel for NCRA. A copy of the OFA Notice, which includes a copy of the request for information, is attached hereto as Exhibit A.
6. To-date, NCRA has not provided any information in response to MR’s OFA Letter and it was not contained in the notice of exemption.

7. Under 49 C.F.R. § 1152.27(c), the offeror may ask that the Board toll the time period within which an OFA must be submitted in order to provide sufficient time for the abandoning railroad to provide the offeror with the information specified in 49 C.F.R. § 1152.27(a).
8. Once MR receives the information it has requested from NCRA, it anticipates it will take at least 30 days to have its experts evaluate the data and provide MR with guidance regarding the economic viability of the line.
9. Having failed to be provided with any information pursuant to its OFA Letter, MR hereby files this Petition in accordance with 49 C.F.R. §1152.27(c)(2)(ii) and requests the Board to toll the time period for which MR must submit its OFA.
10. Granting this Petition is in conformity with 49 U.S.C. § 10101 (7) [reducing regulatory barriers to entry into the industry]; (13) [to ensure the availability of accurate cost information in regulatory proceedings]; (15) [to provide for the expeditious handling and resolution of all proceedings]. Granting this Petition would not significantly adversely affect NCRA's ability to exit the industry along this line.
11. Petitioner would request the time period within which to file an OFA be 60 days from the original effective date of the Board's notice of exemption or until 30 days after receipt by MR of the 49 C.F.R. § 1152.27(a) information MR has requested, whichever is later.

Respectfully submitted,

/s/ William A. Mullins

William A. Mullins
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., N.W.
Suite 300
Washington, DC 20037
Telephone: (202) 663-7820
Facsimile: (202) 663-7849

Attorneys for Mendocino Railway

Dated: June 14, 2022

CERTIFICATE OF SERVICE

I hereby certify that a true copy of Mendocino Railway's Petition to Toll The Date That An Offer of Financial Assistance Must Be Filed By was served by first-class mail, postage prepaid, or by a more expeditious manner, this 14th of June 2022, on all parties of record.

Dated: June 14, 2022

/s/ William A. Mullins
William A. Mullins
Attorney for Mendocino Railway

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB 1305X

**NORTH COAST RAILROAD AUTHORITY – ABANDONMENT EXEMPTION – IN
MENDOCINO, TRINITY, AND HUMBOLDT COUNTIES, CA**

**MENDOCINO RAILWAY’S PETITION TO TOLL THE DATE THAT AN OFFER OF
FINANCIAL ASSISTANCE MUST BE FILED**

EXHIBIT A

OFA NOTICE

BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS
2401 PENNSYLVANIA AVENUE, NW
SUITE 300
WASHINGTON, DC 20037
TELEPHONE: (202) 663-7820
FACSIMILE: (202) 663-7849

William A. Mullins

Direct Dial: (202) 663-7823
E-Mail: wmullins@bakerandmiller.com

May 31, 2022

VIA E-FILING

Cynthia T. Brown
Chief of the Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001

Re: North Coast Railroad Authority – Abandonment Exemption – In Mendocino, Trinity, and Humboldt Counties, Cal., AB-1305X.
Notice of Intent to File Offer of Financial Assistance

Dear Ms. Brown:

Pursuant to the Board's decision served May 20, 2022, and the requirements of 49 CFR § 1152.27, I am hereby submitting this letter on behalf of the Mendocino Railway ("MR") as a formal expression of MR's intent to file an offer of financial assistance ("OFA") to purchase a segment of the rail line that is the subject of this abandonment proceeding (the "Line").¹ The segment of the Line that MR intends to file an OFA is from milepost 139.5 to milepost 152.5, including all appurtenances, signals, communications equipment, real property interests, all other track materials, and any other real property necessary to conduct common carrier service over the segment (the "OFA Segment"). Pursuant to 49 CFR §1152.27, this letter also includes the information necessary to demonstrate that MR is preliminary financially responsible as described in the Board's regulations.

MR is a Class III common carrier, which has been operating in California for approximately 18 years. It is a wholly owned subsidiary of Sierra Railroad Company ("SRC"). MR is interested in expanding into new markets and has a legitimate interest in the OFA Segment. MR believes that there is a continued need for rail service on the OFA Segment and would operate the OFA Segment directly.

¹ The Line that is subject to the abandonment is described in the abandonment proceeding as being 175.84 miles, between milepost 139.5, near Willits, and milepost 284.1, near Eureka, including appurtenant branch lines extending to milepost 267.72 near Carlotta, milepost 295.57 near Korbex, milepost 300.5 near Samoa, and milepost 301.8 near Korbex, in Mendocino, Trinity and Humboldt Counties, CA.

Under the rules set forth in 49 § 1152.27(c)(1)(iv)(B), in order to demonstrate its preliminary financial responsibility, MR must show that it is financially responsible in accordance with the calculated preliminary financial responsibility formulas set forth in the regulation. An offeror is financially responsible if the offeror “has or within a reasonable time will have the financial resources to fulfill its proposed contractual obligations.”

In accordance with the regulations, to show its preliminary financial responsibility, MR submits the following information:

- (1) The preliminary financial responsibility amount is \$1,133,600.00, as shown by the calculations set forth on the enclosed Exhibit A.
- (2) Exhibit A is based on a scrap steel quote enclosed as Exhibit B.
- (3) MR has the financial resources to cover the preliminary financial responsibility amount. See April 29, 2022 bank statement from JP Morgan Chase Bank as Exhibit C.
- (4) MR has cash available in excess of the preliminary financial responsibility amount to pay the purchase price as set forth in the letter of support from JP Morgan Chase Bank enclosed as Exhibit D.
- (5) The Liability Insurance of MR enclosed as Exhibit E.

Based upon the attached exhibits, MR respectfully requests that it be found to be financially able on a preliminary basis to purchase the OFA Segment of the Line. If you have any questions, please contact me by phone at (202) 663-7823, or by email at WMullins@bakerandmiller.com.

Sincerely,

/s/ William A. Mullins

William A. Mullins

cc: Parties of Record

EXHIBIT A

PRELIMINARY FINANCIAL RESPONSIBILITY

Scrap rates at \$300 per ton at Willits (See Exhibit B)

Based on this scrap price per ton times 132 short tons per track, this means a scrap value of \$39,600 per mile. This scrap value per mile times 13 miles is \$514,800. The scrap value per mile at \$39,600 plus the additional sum of \$4,000 pursuant to 49 C.F.R. Section 1152 (c)(1)(ii) is \$43,600 per mile. This amount of \$43,600 per mile doubled is \$87,200 per mile. Pursuant to 49 C.F.R. Section 1152 (c)(1)(ii), the sum of \$87,200 per mile times 13 miles makes the total preliminary financial responsibility \$1,133,600.

EXHIBIT B
SCRAP STEEL PRICE QUOTE

From: Stathi Pappas <Stathi@skunktrain.com>
Sent: Tuesday, May 31, 2022 10:33 AM
To: Robert Jason Pinoli <RJP@skunktrain.com>
Subject: Fwd: rail price schnitzer steel

From: Dyllon Louis <dlouis@schn.com>
Sent: Tuesday, May 31, 2022 10:31:17 AM
To: Stathi Pappas <Stathi@skunktrain.com>
Subject:

Good morning this is Dyllon Louis from Schnitzer Steel, we have spoken earlier on the phone about a quote for your rail scrap. As discussed earlier this quote is only active for the near future and price can change at moment notice. As of today, the market for rail is at 305 a NT. Please if you have any questions do not hesitate to contact me.

EXHIBIT C

MENDOCINO RAILWAY BANK STATEMENT

CHASE
JPMorgan Chase Bank, N.A.
P O Box 182051
Columbus, OH 43218 - 2051

April 01, 2022 through April 29, 2022
Account Number: [REDACTED]

CUSTOMER SERVICE INFORMATION

If you have any questions about your statement, please contact your Customer Service Professional.

00001544 DDA 703 212 12022 NNNNNNNNNN 1 000000000 61 0000
SIERRA RAILROAD COMPANY
1222 RESEARCH PARK DRIVE
DAVIS CA 95618



SAVINGS SUMMARY

Premium Commercial Money Market

	INSTANCES	AMOUNT
Beginning Balance		\$12,347,155.54
Deposits and Additions	1	98.39
Electronic Withdrawals	1	- 500,000.00
Ending Balance	2	\$11,847,253.93
Interest Paid This Period		\$98.39
Interest Paid Year-to-Date		\$432.70

TRANSACTION DETAIL

DATE	DESCRIPTION	AMOUNT	BALANCE
	Beginning Balance		\$12,347,155.54
04/19	Online Transfer To [REDACTED] Transaction#:	- 500,000.00	11,847,155.54
04/29	Interest Payment	98.39	11,847,253.93
	Ending Balance		\$11,847,253.93

INTEREST RATE ON COLLECTED BALANCE

INTEREST
RATE(S)
04/01 TO 04/30 AT 0.01%

EXHIBIT D

JP MORGAN CHASE BANK LETTER OF SUPPORT



May 31, 2022

Surface Transportation Board
395 E St SW
Washington, DC 20423
CC: Parties of Record

Re: Bank Confirmation Letter: Sierra Railroad /Mendocino Railway ("Company") Current Intent to File OFA

To whom it may concern:

This letter is being delivered on behalf of the Company to provide information on its banking relationship with JPMorgan Chase Bank, N.A. (the "Bank"), for use in connection with your request. We can hereby confirm that the Company has cash well in excess of the calculated preliminary financial responsibility of \$1.2 million in the above referenced proceeding.

Please be advised that the Bank shall have no duty or obligation to inform the addressee hereof of any future changes. This letter is solely for the benefit of the addressee hereof for the referenced purpose and may not be relied on by any other person or for any other purpose.

Sincerely,

A handwritten signature in red ink that reads "Zachary Erickson".

Zachary Erickson
Vice President
JPMorgan Chase Bank, N.A.

The information in this letter is provided as an accommodation to the inquirer. This letter and any information provided in connection therewith are furnished on the condition that they are strictly confidential, that no liability or responsibility whatsoever in connection therewith shall attach to the Bank or any of its officers, employees, or agents, that this letter makes no representations regarding the general condition of the companies named herein, their management, or their future ability to meet their obligations, and that information provided in this letter or in connection therewith is subject to change without notice.

© 2017 JPMorgan Chase & Co. All rights reserved. Chase, J.P. Morgan and JPMorgan Chase are marketing names for certain businesses of JPMorgan Chase & Co. and its subsidiaries worldwide (collectively, "JPMC"). Products and services may be provided by commercial bank affiliates, securities affiliates or other JPMC affiliates or entities. 11851

EXHIBIT E
PROOF OF INSURANCE

LIBERTY SURPLUS INSURANCE CORPORATION

(A New Hampshire Stock Insurance Company, hereinafter the "Company")
175 Berkeley Street, Boston, MA 02116
Toll-Free number: 1-800-677-9163

THIS IS A CLAIMS MADE AND REPORTED POLICY. THIS POLICY IS LIMITED TO THOSE CLAIMS WHICH ARE MADE AND REPORTED TO US IN WRITING IN ACCORDANCE WITH THE POLICY PROVISIONS.

The Insurer is a surplus lines insurer, is not licensed by the State and is subject to limited regulation. In the event of insolvency of the Insurer, the insurance is not covered by the State's guaranty fund. This policy may be subject to surplus lines taxes, stamping fees, surcharges, and certain surplus lines reporting requirements mandated by state regulations. The Surplus Lines Broker is responsible for the disclosure of all related taxes, surcharges, and fees. The Surplus Lines Broker is also responsible for the applicable surplus lines reporting requirements including but not limited to the submission of diligent search forms.

Policy Number:	Broker Name and Address	Renewal of	1st Yr. Liab. Pol.
TRHV290955-10	United Shortline Insurance Services 8265 N. Van Dyke Rd Port Austin, MI 48467	TRHV290955-9	2012

Item 1. Named Insured: Sierra Railroad Co & Mendocino Railway

Mailing Address: 1222 Research Park Drive
Davis, California 95618

Named Insured Classified as:

☐ Individual ☐ Partnership ☐ LLC ☒ An organization other than a Partnership, Joint Venture or LLC

Item 2. Effective Date: 8/31/ 2021

Expiration Date: 8/31/2022

Retroactive Date: 5/1/1991

12:01 A.M., standard time at the address of the Named Insured as stated herein

Item 3. In return for the payment of the premium, and subject to all the terms of this policy, we agree with you to provide the insurance as stated in this policy.

LIMITS OF INSURANCE

Each Occurrence Limit:	\$5,000,000
Policy Aggregate Limit:	\$10,000,000
Medical Expense Limit – Any One Person:	\$5,000

1	2
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GL 1001 (0701)

Item 4. Deductible

\$10,000 Each occurrence.

Item 5. Premium

Classifications or Locations	Premium Basis Ticket Sales	Rate	Certified TRIA Premium	Premium
Tourist/Excursion Railroad	\$5,500,000	Flat Rated	Excluded	\$196,550

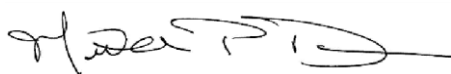
MINIMUM PREMIUM \$196,550

DEPOSIT PREMIUM \$196,550

This policy is issued by a surplus lines insurer. In the event of insolvency of the insurer, this insurance is not Covered by the Guaranty Fund or Guarantee Association.

In consideration of the payment of premium and in reliance upon statements made in the application, this policy including all endorsements issued herewith shall constitute the contract between the Company and the Named Insured. This policy is valid only if signed below by a duly authorized representative of the company.

This policy, including all endorsements issued herewith, is hereby countersigned by:




PRESIDENT VICE PRESIDENT and SECRETARY Matthew P.
Dolan Mark C. Touhey

September 9, 2021

Date

BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS
2401 PENNSYLVANIA AVENUE, NW
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William A. Mullins

Direct Dial: (202) 663-7823
E-Mail: wmullins@bakerandmiller.com

May 31, 2022

Mr. Charles H. Montange, Esq.
426 NW 162ND Street
Seattle, WA 98177

Re: North Coast Railroad Authority – Abandonment Exemption – In Mendocino, Trinity, and Humboldt Counties, Cal., AB-1305X.
Request for Information for OFA

Dear Charles:

Please be advised that Mendocino Railway (“MR”) is considering making an offer of financial assistance (“OFA”) to acquire a segment of the line described in the above referenced proceeding.

Pursuant to 49 § 1152.27(a), NCRA is promptly requested to provide the undersigned with the following information:

- (1) Minimum purchase price.
- (2) Most recent reports on the physical condition of the involved line.
- (3) A description of any rail, crossings or crossing structures that have been removed, and any estimates of the cost of rebuilding or reinstalling such rail or structure(s).
- (4) Traffic, revenue, and other data, including estimate of the net liquidation value of its interest in the line and supporting data reflecting available real estate appraisals, assessments as to the quality and quantity of track materials in the line, and removal cost estimates (including the cost of transporting removed materials to point of sale or point of storage for relay use). Such data should also include a description of the nature of the title to the real estate involved, including disclosure of all revisionary interests.
- (5) Copies of any and all environmental audits of the real estate involved, and a description of (a) all sites under investigation by, or being remediated under the supervision of the U.S. Environmental Protection Agency or the California Department of Environmental

Quality, (b) all known potential environmental liabilities arising out of conditions on the property, (c) all releases of hazardous materials on or about the property, and (d) a history of all customers and industrial users along the line.

- (6) Offeror and its advisors may wish to inspect the line and property. Please let us know who we should contact to arrange for access to the property.

MR appreciates your prompt attention. If you have any questions, please contact me by phone at (202) 663-7823, or by email at WMullins@bakerandmiller.com.

Sincerely,

/s/ William A. Mullins

William A. Mullins

cc: Parties of Record