



MENDOCINO RAILWAY

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September 26, 2019

Sarah McCormick
City of Fort Bragg
416 Franklin Street
Fort Bragg, CA 95437

Re: Notice of Exemption

Dear Ms. McCormick:

I am in receipt of your Notice of Exemption, which Tabatha Miller emailed to us on September 25, 2019. While I appreciate, and agree with, the City's determination that the repair of Dry Shed No. 4 is exempt from any requirement to obtain a California Coastal Development Permit, I do have two concerns.

My first concern relates to the statement in the Notice that Georgia Pacific, LLC is the owner of Dry Shed No. 4 (and, presumably, the underlying property). The City should be aware that we purchased Dry Shed No. 4 and the underlying property from Georgia-Pacific on or about June 20, 2019. The County Recorder's records reflect that we are the current owner of both (see the attached print out). I would appreciate if the City would correct its records.

My second concern relates to the statement in the Notice that "the City has required the applicant to obtain a building permit for construction activities on Dry Shed 4 to ensure California building code standards and safeguard public welfare."

As the City is aware, our company is a railroad corporation and public utility under California law. (Pub. Util. Code §§ 211, 216, and 229-230.) As acknowledged by former City Attorney Russell Hildebrand, our status as a common carrier railroad means that we are subject to the exclusive jurisdiction of the Surface Transportation Board and that state and local permitting requirements related to our activities are thus federally pre-empted.

While our work on Dry Shed No. 4, which is being conducted in support of our railroad operations, is exempt from local permitting requirements, we are a longstanding member of the local community and wish to cooperate with the City where we can do so. While we are not required to apply for a building permit, we are, and have always been, willing to discuss our work with the City and to consider any concerns the City might have relating to our work. We are also willing to make a donation to the City, equal to the cost of a building permit, to cover at least some portion of the City's costs related to any such discussions.

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Please note that it remains our position that any requirement that we obtain a building permit is federally pre-empted. We do not by our above offers waive, or intend to waive, any such pre-emption and we specifically reserve all of our rights, now and in the future, to assert such federal pre-emption.

Please let me know if the above proposal is acceptable to the City.

Sincerely,

A handwritten signature in black ink, appearing to read 'Torgny Nilsson', followed by a long horizontal line extending to the right.

Torgny Nilsson
General Counsel

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You searched for: exact search in BothNamesID for Mendocino Railway and RecDateID >= Sat Jun 01 00:00:00 PDT 2019 and <= Sun Jun 30 00:00:00 PDT 2019 and Please Search Over=Abandon Homestead (R), Abandonment (R), Abstract Judgment (No Fee) (R), Abstract Of Judgment (R), Acceptance (R), and 119 more

2 items found, displaying all items.1

Description Summary

Easement (R) 2019-07031	Recording Date: 06/20/2019 10:27:06 AM Book/Page: Parcel: 008-010-37, 008-020-15, 008-053-34, ... Grantor: MENDOCINO RAILWAY Grantee: GEORGIA PACIFIC LLC
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Deed (R) 2019-07030	Recording Date: 06/20/2019 10:27:06 AM Book/Page: Parcel: 008-020-15, 008-010-37, 008-053-34 Grantor: GEORGIA PACIFIC LLC Grantee: MENDOCINO RAILWAY
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