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E X H I B I T S

FOR THE PETITIONER:		MARKED	RECEIVED
(NO EXHIBITS OFFERED)			
FOR THE RESPONDENT:		MARKED	RECEIVED
EXHIBIT D	VARIOUS EMAILS AND LETTERS OF MENDOCINO RAILWAY MANAGEMENT.		265
EXHIBIT E	LETTER FROM WARD LEVY APPRAISAL GROUP TO JOHN MEYER.		265
EXHIBIT H	PLAINTIFF'S RESPONSES TO JOHN MEYER'S SPECIAL INTERROGATORIES, SET 1.		305
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EXHIBIT K	PLAINTIFF'S RESPONSES TO JOHN MEYER'S REQUESTS FOR ADMISSIONS, SET 1.		305
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AUGUST 25, 2022

P R O C E E D I N G S

- - -

THE COURT: Okay. So let's go back on the record.
And, Mr. Pinoli, you're still under oath.

THE WITNESS: Yes. Thank you. Good morning, Your
Honor.

CROSS-EXAMINATION:

BY MR. JOHNSON:

Q. Mr. Pinoli, yesterday we were looking at Exhibit
D. When we stopped the hearing yesterday, we had just
discussed the last email in Exhibit D, which was dated
January 17, 2020.

And it's -- the number on the bottom right is 135. And
I'd like to go to the page before that, which is 134. If
you'll take a look at that?

A. Sure. And if you don't mind, I'm going to grab my
glasses. I didn't bring those up to the stand.

(Discussion held off the record.)

THE COURT: You can keep going, Mr. Johnson.

BY MR. JOHNSON:

Q. Okay. Mr. Pinoli, are you on page 134?

A. Yes, sir. I am.

Q. Okay. This is an email dated January 18, 2020,
and it appears that you wrote that email. Is that correct?

A. Yes.

Q. Can you just -- can you just read the email on the
bottom of this page to yourself, please? Please let me know

1 when you're done with that page.

2 A. Okay.

3 Q. Okay. So in the second paragraph of this email,
4 it states as for Camp Willits, George's son, Craig, a CDF fire
5 prevention officer, I think just built a new house on this
6 property.

7 And they continue to make significant improvements to it.
8 I doubt they have an interest in selling. Do you see that?

9 A. I do.

10 Q. The reference to George, is that George Dudley?

11 A. Yes.

12 Q. And when you and Mendocino Railway were evaluating
13 the different properties that may potentially be available or
14 functional for your site, were you also taking into
15 consideration the potential cost of purchasing the respective
16 properties when you made those evaluations?

17 A. In some respects, I do believe so.

18 Q. Okay. And then in the next paragraph, it says
19 there is a parcel for sale just a wee bit to the west. And
20 then it has a reference to 2500 West Highway 20 in Willits.

21 It is accessed through what we call the Blanch Field
22 Crossing. This is the property that has burned several times.
23 Access off Highway 20 isn't easy, but it isn't miserable,
24 either.

25 Do you know what parcel is being referred to there?

26 A. It was, as I recall, a piece of property uphill.
27 It is uphill from -- certainly, from the subject property, and
28 uphill from the Dudley property.

1 And, as I recall, it was a piece of property that was for
2 sale that we were using maybe as a comparable.

3 Q. Okay. So you do not believe that it was a
4 property that would function for your site?

5 A. No. Once -- really, once you depart heading west
6 from the KOA, the grade, the ascent up the east face of the
7 coast mountain range is steep.

8 It almost approaches a three percent grade, and so
9 everything is uphill. There is nothing really flat uphill of
10 the KOA property, the subject property, for that matter.

11 Q. The cutter -- the Cutter Lumber property is flat,
12 isn't it?

13 A. It is, but it has, as I described in my earlier
14 testimony, significant barriers. The accessing from Cutter
15 across --

16 Q. No. I remember. I just wanted to ask if it was
17 flat?

18 A. The Cutter property is flat.

19 Q. Thank you. The next sentence in the email that we
20 were looking at from January 18th states, "I think our best
21 bet is to buy a fraction of KOA, or to see about buying the
22 old Cutter property."

23 "They have done nothing with it since the new owners
24 acquired it."

25 "I went on a quest to find out who owns it, and you had
26 me work through Hampson (phonetic), who, as I recall, never
27 followed through."

28 "We could revisit either KOA or Cutter, if you'd like."

1 So would it be correct to say that at that time, you
2 thought that the best options were the Cutter property or the
3 KOA property?

4 A. At that time.

5 Q. Okay. And, then, if you continue in this email,
6 it states on the bigger question, and then in quotations it
7 says, "(Robert, what do you think? Several thoughts.)"

8 And then you list one. It states, "One, our station,
9 while beautiful and on the national register, is not an ideal
10 location."

11 "Two, the purpose of Remco was to get us on Main Street
12 with better visibility for all Mendocino- and coast-bound
13 traffic."

14 "And, three, if it's the best visibility we seek, then I
15 previously suggested this off Shell Lane."

16 "This is on the NCRA main line, and what makes sense if
17 we're serious about acquiring the tracks from Willits to
18 Cloverdale."

19 So based on the statements here, it appears that the
20 visibility of your station is very important to Mendocino
21 Railway. Is that correct?

22 A. From a -- for evaluating this from an excursion
23 basis only, that is a factor.

24 Q. So visibility played a major role in your
25 decision-making process, as far as what sites would be the
26 best. Is that correct?

27 A. At the time the email was written, it was a
28 conversation that was ongoing, so it was an exchange of ideas.

1 Q. Okay. But is it correct that at that particular
2 time, visibility was an important factor that you were taking
3 into consideration when you were deciding which property would
4 be most appropriate for your station?

5 A. I wouldn't say that it was an important factor,
6 but it certainly was a factor.

7 Q. So you claim that it's not important where the --
8 whether or not the property is visible?

9 A. I -- I -- I -- again, I'm not trying -- my answer
10 isn't trying to be obtuse. I'm not saying that it was an
11 important factor, or that it wasn't an important factor.

12 I'm saying that it was a factor, and that in an ongoing
13 discussion with my colleagues, it was something to consider.

14 Q. And I see that throughout Mendocino County, these
15 days they have significant billboards relating to the rail
16 bikes and the Skunk Train. Is that correct?

17 A. There are billboards.

18 Q. And Mendocino Railway has made a decision to spend
19 money on marketing of its services. Is that right?

20 A. It's no different than what the railroad has spent
21 in the past.

22 Q. Okay. And -- and as far as tourists and
23 sightseeing, most of the billboards that have been erected in
24 Mendocino County relate to those type of services. Is that
25 correct?

26 A. They do.

27 Q. Okay. And are there billboards that -- that --
28 that seem to reference the freight availability that can be

1 found on the California Western Railroad?

2 A. There are not.

3 Q. Is there any advertisement of freight services by
4 the California Western Railroad at this time?

5 A. There are.

6 Q. Where is that located?

7 A. On the railroad's website.

8 Q. Are there any on billboards?

9 A. There are not.

10 Q. And if you look at the paragraph labeled No. 3 in
11 this email, it references property off of Shell Lane. Is that
12 correct?

13 A. Yes.

14 Q. And that Shell Lane is located in Willits?

15 A. It is.

16 Q. And can you -- is that property visible on
17 Exhibit 3?

18 A. It's not visible on Exhibit 3. And yesterday when
19 we were talking about that location, if the map were extended,
20 it would be down in this general area.

21 The new alignment of the 101 corridor and the -- what I'm
22 pointing to is Exhibit 3, but the new alignment of the 101
23 corridor is to the east of what's depicted in Exhibit 3.

24 And the Shell Lane property is to the southeast of the
25 lower right corner of Exhibit 3.

26 MR. JOHNSON: I'd like to have this marked.

27 (Respondent's Exhibit P was marked for identification.)

28 ///

1 BY MR. JOHNSON:

2 Q. This is a map that has been marked Exhibit P.
3 Take a look at it. This map has been marked Exhibit P. It
4 appears from my understanding that it relates to the portion
5 that you were just discussing, or the property and the area
6 you were just discussing on Exhibit 3. Is that correct?

7 A. Yes.

8 Q. Okay. And if you look at the middle of the -- the
9 top of the page, or middle of the page, it appears that it
10 states Mendocino Railway in a couple places.

11 Would that represent the Mendocino Railway line?

12 A. Yes.

13 Q. Okay. And that would be on orange portion, or the
14 orange portion on Exhibit 3. Is that right?

15 A. Yes. This area right here.

16 Q. Okay. And, then, there's the area on the map
17 where they have some red parcels that are outlined. Do you
18 see those?

19 A. I do.

20 Q. It appears to want to say Shell Lane holding LLC?

21 A. Yes.

22 Q. And then next to that -- next to those red
23 parcels, there is also some parcels called Peters -- Erica
24 Peters. Or Peters, Erica Dawn. Do you see that?

25 A. I do.

26 Q. And the parcel that you were referring to on Shell
27 Lane in this email in No. 3 that we were just discussing, is
28 that parcel that you were mentioning there, is that located

1 somewhere on this Exhibit P?

2 A. Yes.

3 Q. And what parcel would that be?

4 A. Ending in what I believe is -07.

5 Q. Is that the Peters parcel?

6 A. Yes.

7 Q. Okay. So -07, that would be the parcels that

8 appeared, or the parcel that appears to have a couple of

9 buildings on it. Is that right?

10 A. Yes.

11 Q. And then what about the parcel next to it, the

12 Erica Peters parcel that looks like it ends in -06. Was that

13 evaluated?

14 A. I don't believe that it was.

15 Q. Okay. And what about the Peters parcels

16 referenced? It seems to be just a little to the north.

17 There's a few parcels, Erica Peters' parcels, that seem to

18 boarder the Mendocino Railway.

19 Do can you see those parcels?

20 A. I do.

21 Q. And were those evaluated?

22 A. I don't believe that they were. We have in the

23 past, because this is an area of significant trespass and

24 criminal or illegal activity, encountered problems.

25 And as I recall from the right-of-way maps that we had, I

26 believe there was different ownership if I'm recalling

27 correctly, that it hasn't always been a contiguous family or

28 the same name.

1 Q. Okay. But you didn't evaluate this area?

2 A. No.

3 Q. Why didn't you?

4 A. Well, I mean, just from looking at this map today
5 for the first time as you have it displayed here on the
6 Exhibit P, there are several issues.

7 Q. I'm not asking about the issues. I'm asking why
8 you didn't evaluate it.

9 THE COURT: I think he's trying to explain that to
10 you. There were several issues as to why you didn't evaluate
11 it?

12 THE WITNESS: That's correct.

13 MR. JOHNSON: I'm sorry.

14 THE WITNESS: As I'm looking at this map today for
15 the first time, the issues that I see is that in Exhibit 3,
16 which is up here, you have the main line of the California
17 Western Railroad.

18 You have the main line, not yard limits of the NCRA. And
19 you have this piece of property right here, which is on
20 Exhibit P, referring to the Peters property.

21 Well, the first thing that I'm looking at is that if you
22 were going to install a wye track, it would be almost
23 prohibitive, because, again, you're talking about the main
24 line of another yard.

25 BY MR. JOHNSON:

26 Q. But isn't it true that you could potentially
27 access these parcels off of your orange line on Exhibit 3? It
28 appears that they border.

1 A. There is the potential for that.

2 Q. So just to clarify, though, when you were
3 referencing the Shell Lane property on Exhibit D, the email we
4 were just looking at, you were, effectively, referencing the
5 Peters -- Erica Peters parcel that ends in -07 on this map?

6 A. That is correct.

7 Q. Will you circle that for me?

8 A. Sure.

9 MR. BLOCK: Which is being circled?

10 THE WITNESS: I circled the 07.

11 BY MR. JOHNSON:

12 Q. The parcel that you were referencing in your
13 email?

14 A. Well, without having the image of what I was
15 referring to in my email in front of me, I don't know that
16 that's possible.

17 Because if I circle something, I certainly don't want to
18 include more than what was there.

19 Q. Okay.

20 A. I'm happy to put on "X" on the building.

21 Q. Okay. Well, just if you know. I'm asking you if
22 you know what parcel you were referring to, or what property
23 you were generally referring to in the email.

24 If you could somehow reflect that on the map, I would
25 appreciate it.

26 A. If it's acceptable, I will draw a line around the
27 building just to highlight the building.

28 Q. Okay.

1 A. And I've gone ahead and done so.

2 Q. Thank you. And do you recall -- do you recall any
3 acreage related to this property about how big it was?

4 A. As I recall, I think it was about five or
5 six acres, maybe.

6 THE COURT: So I'm a little confused here. I'm
7 just going to interrupt. So show me on my map. Will you
8 draw?

9 Because there's a dark orange line on this particular
10 piece of property, and then this kind of just over here, and
11 then down.

12 So is it this property here that you're looking at?

13 THE WITNESS: Yes. This property here. I don't
14 want to draw on your map.

15 THE COURT: Go ahead, and draw on my map. It's
16 okay.

17 THE WITNESS: It was that billing that we were
18 looking at.

19 THE COURT: But which parcel is it?

20 THE WITNESS: I believe it's this parcel, here.
21 There's no defined lines, so I don't know if this parcel
22 extends all the way up to here. But it extends down to here.

23 So if it is truly this parcel, then, yes, I would
24 highlight that. But...

25 THE COURT: You're not sure.

26 THE WITNESS: I'm not certain.

27 MR. BLOCK: I can't see which building?

28 ///

1 BY MR. JOHNSON:

2 Q. Maybe you can just state it for the record. Is it
3 the building on the south?

4 THE COURT: It's on the south.

5 THE WITNESS: So I highlighted that building.

6 MR. BLOCK: You want to show Mr. Johnson?

7 BY MR. JOHNSON:

8 Q. Thank you. And just to clarify, it was your
9 belief that the property you were referring to in your email
10 was approximately five or six acres?

11 A. Yes.

12 Q. If you go back to the email, there is a number
13 four that says there is and has never been anything redeeming
14 about the Skunk Train's trip from Willits depo proper to,
15 let's say, Highway 20. It's the backyards of some very
16 rundown houses and businesses.

17 As we know, the best part of the redwood route are the
18 redwoods. We don't get those now days. We just tough the
19 periphery.

20 Do you recall why you mentioned this in you email?

21 A. I think we were talking about -- earlier about
22 placement of a station. So it was continued -- and
23 visibility. So it was continued dialogue in the same spirit.

24 Q. So part of your evaluation as to what site would
25 be appropriate was based on the site seeing from the train.
26 Is that correct?

27 A. Yes.

28 Q. Okay. So if you go down -- we'll skip No. 5 on

1 this email.

2 If you go down to the last sentence, or paragraph, it
3 says in summary, "I'm in favor of seeing the launch point for
4 the Skunk Train move to a better, more visible location."

5 "I believe it needs to make long-term sense, though.
6 What do we want the skunk to look like next year or in the
7 future decades? Thanks. R.J. Pete."

8 So, again, visibility is an important factor. Is that
9 correct, or not?

10 A. I think it's -- it's important, but it's also a
11 consideration.

12 Q. And in this email, there's no reference to freight
13 being evaluated in this email relating to what site is
14 appropriate. Is that correct?

15 A. There is not.

16 Q. Okay. I'd like you to flip to page 133 on the
17 bottom right of Exhibit D, which is the next email.

18 It appears -- the beginning of it appears on the bottom
19 of page 133, and it is an email dated January 18, 2020, that
20 says Mike Hart wrote?

21 A. Okay.

22 Q. Do you want to take a look at that real quick, and
23 read that email?

24 A. I've read the email.

25 Q. Okay. Okay. The -- the email says, "Interesting
26 property. It's ridiculously large, and steep. I would take
27 the 12 acres over it any day, though.

28 I wonder if there might be a comparable use for some part

1 of it, and we can let the rest just burn every year."

2 Do you know what parcel that is?

3 A. I would guess -- I don't know what it is. If I
4 had to guess, I would say that it would be the Dudley
5 property, because that is 12 acres as we have discussed
6 previously.

7 Q. And then if you go down a couple paragraphs, it
8 says, "I have reached out to both owners, and neither would
9 call me back." And, then, in parenthesis, "(KOA and Cutter.)"

10 So did Mike Hart reach out to those KOA and Cutter
11 people?

12 A. He indicated to me that he did, and I don't know
13 that he did.

14 Q. All right. And, then, the next paragraph says,
15 "While I like the idea of visibility, I also like the idea of
16 maintaining a lot less track."

17 "So getting entirely out of Willits isn't a horrible
18 idea, and moving up the hill. Cloverdale adds an awful lot of
19 miles."

20 So it was one of the factors in determining the site,
21 evaluating it, if you could take care of less track?

22 A. I think it was one of Mike's comments, and one of
23 his ideas. It certainly wasn't, you know, something that I
24 subscribe to.

25 Q. And then the next paragraph says, "I do like your
26 idea of being up near KOA."

27 "It has taken me a lot of years to come around to this
28 position, as I had always hoped to work things out at Remco.

1 But perhaps leaving Willits behind and just having our own
2 thing on the mountain makes sense. Mike."

3 So is it correct to say that it was your idea to put the
4 station, or potentially put a station near KOA?

5 A. As it relates to these conversations, you know,
6 again, looking to bring cohesiveness to our operations
7 something that isn't as disjointed as it is now has been a
8 long-term goal.

9 Q. Okay. If you go back to page 133, the email above
10 is dated January 20, 2020, from Mike Hart, or that Mike Hart
11 wrote. If you can take a look at that?

12 A. Okay.

13 Q. And if you look at the second paragraph, it says,
14 "I really do think that 12 acres owned by George Dudley is
15 worth having a call. Robert, are you going to contact him?"

16 Did you contact Mr. Dudley?

17 A. Via letter. And I recall speaking with his son.

18 Q. Okay. So you did contact him?

19 A. I did.

20 Q. And I don't see any discussion in this email, or
21 statements that state that -- now that the Dudley property has
22 been brought up a few times and is 12 acres in size, it
23 doesn't appear that there's any discussion or there's a
24 statement being made that the 12 acres is not sufficient
25 acreage for your project. Is that correct?

26 A. I'm sorry. Would you repeat that question,
27 please?

28 Q. Yeah. At this particular time in your

1 discussions, it doesn't appear that 12 acres is -- is too
2 small a parcel for your project. Is that correct?

3 A. Yes. During the time this conversation was taking
4 place, perhaps it wasn't a consideration of ours that we had
5 expressed in email.

6 Q. If you go to the next page, which is page 132 --

7 A. Okay.

8 Q. -- there is an email in the middle of the page
9 that states from Mike Hart, dated May 14, 2020. And it's to
10 Robert Pinoli, Christopher Hart, Torgny Nilsson, and Dave
11 Magaw. And the subject is Camp Willits.

12 Do you want to take a look at this email and read it?

13 A. All right. Okay.

14 Q. All right. It's -- if the second paragraph --
15 well, it's written to you. "Hi, Robert."

16 And then in the second paragraph, it states, "If we were
17 to go to the -- if we were to go to the east of the crossing,
18 we end up on the Meyer property, 20 plus acres with a ton of
19 Highway 20 frontage, a lot of flat ground, and a very long
20 tangent section of our railroad."

21 "We could build a station and plenty of car storage. The
22 issue is that hikers, rail bikes, and trains, etcetera, need
23 to trigger the crossing to head over the hill."

24 "It is a concern from a safety perspective, but, on the
25 other hand, it is very attractive advertising that we are a
26 railroad, and this is what is going on today."

27 "I can see a lot of people liking to be able to push the
28 button."

1 My question is is this the first reference you're aware
2 of for the Meyer property being considered for the project?

3 A. You know, I don't -- I don't recall if it is the
4 first reference, or if it is something that we had talked
5 about on the phone prior to.

6 Q. Okay. Well, do you think it is approximately in
7 this time frame when you started to discuss the Meyer property?

8 A. I think that that is a fair assessment.

9 Q. Okay. So that would have been sometime around
10 May 14, 2020?

11 A. Yes.

12 Q. And there is also reference to, "We could build a
13 station and plenty of car storage. The issue is that hikers,
14 rail bikes, and trains, etcetera, need to trigger the crossing
15 to head over the hill."

16 At that particular time, it doesn't look like
17 transloading was an issue that you were evaluating. Is that
18 correct?

19 A. Well, I think that Mike's reference to car storage
20 certainly indicates that.

21 Q. Okay. But transloading -- the term "transloading"
22 wasn't used. Is that right?

23 A. The term transloading was not used in this email.

24 Q. Okay. So is it also one of the services, I guess,
25 that you provide is hiking on the railroad line?

26 A. That is correct.

27 Q. Would that be considered a railroad function?

28 A. From the standpoint that a passenger could take

1 the train to a destination, get off, and then hike back.

2 Q. So you consider hiking to be part of a
3 railroad-type operation?

4 A. It -- I consider anything that involves the
5 railroad to be a part of railroad operation.

6 Q. Okay. Is there camping on the line?

7 A. There is no railroad camping along the line. No
8 railroad-owned camping along the line.

9 Q. And do you consider camping to be a railroad
10 function?

11 A. The railroad has no camping facilities, so I
12 wouldn't consider it to be a railroad function.

13 Q. Okay. And, then, if you go to -- if you go to the
14 next paragraph in this email, it says, "We end up with over
15 1,700 feet of roadway for signage and visibility."

16 "As I recall, there is a very large, flat valley there up
17 against the tracks that would make a great spot for station
18 and parking."

19 "Just along the property, there is 2,200 feet of track
20 that would make secure storage there. There is nothing but a
21 few mobile homes and junction there."

22 "Obviously, the owner sees it differently. I do note
23 that the owner doesn't show as living on the property, and
24 lives in Glenn County, California."

25 "Evaluation with the county is only 165- K," or thousand.
26 "Obviously, the owner would want more for it."

27 "We could probably move our current station to this
28 location, and get a ton of press for doing so."

1 So it appears, from Mike Hart's perspective at least,
2 that signage, visibility, and advertising are very important
3 factors in determining what is the proper site. Is that
4 correct?

5 A. I think from reading his email, that is an
6 important factor.

7 And we were looking to do -- our goal is to put a
8 transload facility in there, and a better billboard than we
9 talked about earlier to advertise the transload of the freight
10 services with the railroad that has that visibility.

11 Q. Okay. And it also appears that press is very
12 important to Mr. Hart. Is that correct?

13 A. Based on this email, yes.

14 Q. Okay. And if you look down, there is also some
15 parcel information for the Meyer property.

16 And I think we discussed yesterday some of the these
17 parcels were zoned, or appeared to be zoned based on the
18 emails as recreational, amusement/recreation. Do you see
19 that?

20 A. I do.

21 Q. And I think Mr. Hart thought that that was a good
22 type of zoning for what your operation was looking for. Is
23 that correct?

24 A. I'm not certain what his thought process was. As
25 I mentioned yesterday in my testimony, I'm not familiar with
26 Mendocino County's amusement/recreational zoning. I didn't
27 know that exists.

28 Q. Does recreational zoning seem consistent with

1 transloading?

2 A. No.

3 Q. Do you think most railroad stations are -- are
4 zoned industrial, or are they zoned -- do you know what
5 they're zoned?

6 A. I wouldn't be able to opine on that.

7 Q. Okay. If you go to the next page, page 131,
8 Exhibit E, there is an email on the bottom date requested
9 May 15, 2020, and it is an email from you.

10 Would you take a look at that?

11 A. Okay.

12 Q. And in this email, you state, "Quite familiar with
13 that property. It was on the market for a year, and sold in
14 the last two years, maybe. Since then, folks have moved tons
15 of junk to it, I suspect for a legal grow operation."

16 "The biggest problem is being east of Highway 20."

17 "And pushing the button as in activating the gates for
18 non rail-mounted traffic I don't think will fly with the CPUC
19 or FRA once they see what is going on."

20 Do you see that?

21 A. I do.

22 Q. And was that your opinion at that particular time?

23 A. With respect to pushing the button?

24 Q. Yes.

25 A. Yes. As I testified to yesterday, that is
26 something that as someone who spent three decades in this
27 industry wouldn't fly, and I described in detail the
28 mechanisms for what is considered to be appropriate.

1 Q. So how would you -- if you were to take an
2 operation of Mr. -- or take over and buy Mr. Meyer's property,
3 how would you address this particular issue?

4 A. Using the DTMF technology that I spoke of
5 yesterday.

6 Q. You said you think that technology would work for
7 hikers, and rail bikes, and that type of operation?

8 A. It would definitely work for rail bikes and train
9 operations. I'm not certain about hikers. I don't see hikers
10 departing from that location.

11 Frankly, I would see them, if anything, taking the train
12 to a certain point, and hiking from there west.

13 Q. Okay. And, then, the next paragraph says, "While
14 praiseworthy, the cost to move the building would far exceed
15 the cost to build something we want for our future
16 operations."

17 And the next sentence says, "Would you like me to send a
18 letter to John Meyer?"

19 So at this time, Mr. Hart was evaluating whether or not
20 to move the whole train station located in Willits to the new
21 site?

22 A. It was a suggestion of his, yes.

23 Q. And -- okay.

24 And if you go to the next email, which is on page 131, it
25 is an email dated May 15, 2020, at 8:59 a.m. written by Mike
26 Hart in response to the following up on what we just
27 discussed.

28 It says, "We certainly could ask if they are open to

1 selling. Please do ask John."

2 "Yes. Totally understand that pushing the button would
3 be problematic."

4 "As to moving the buildings, it would really just come
5 down to selling that property. If we could find a buyer, that
6 would make a lot of this work. Thanks, Mike."

7 So in response to this email, did you reach out to
8 Mr. Meyer?

9 A. I did.

10 Q. And how did you contact him initially?

11 A. Via a letter.

12 Q. Okay. If you -- if you flip to page 108 in
13 Exhibit D, do you see that?

14 A. I'm sorry. You said page 108?

15 Q. Yes.

16 A. That does not exist in this binder.

17 Q. It's a few pages up.

18 THE COURT: 108?

19 MR. JOHNSON: Yeah.

20 THE WITNESS: My pages go from 174, to 173, to
21 127, to 129. There is no page 108.

22 BY MR. JOHNSON:

23 Q. They're not necessarily in order.

24 A. That's not how we learned to read in school.

25 Q. Yeah. These are based on email training.

26 THE COURT: You have to go up about six pages.

27 THE WITNESS: I'm sorry.

28 ///

1 BY MR. JOHNSON:

2 Q. I did this based on the emails. Sorry.

3 A. I'll find it. I was just looking at number order.

4 Q. If Mr. Block had just sent them in order...

5 A. There we are.

6 Q. Thank you. Sorry about that.

7 A. That's okay.

8 Q. So this is a letter dated May 16, 2020, to John
9 Meyer, and signed by Robert Jason Pinoli.

10 Is this the letter you were referring to?

11 A. Yes, sir.

12 Q. And did you send this letter to Mr. Meyer?

13 A. I did.

14 Q. And in the letter, you state, "Dear Mr. Mayer, I'm
15 sending this letter with an interest in acquiring the
16 20.26 acres you own at 1401 West Highway 20 in California,
17 which is adjacent to the Skunk route." Is that correct?

18 A. If that's what it says, yes.

19 Q. Okay. I'd like to go back to the email that we
20 were talking about.

21 MR. BLOCK: Page 131.

22 BY MR. JOHNSON:

23 Q. Page 131. Thank you.

24 A. Okay. I'm there.

25 Q. So, actually, if you go to page 130. The next
26 email starts on the very bottom of page 130. It's dated
27 May 23, 2020, and it's from Mike Hart. Those two over to page
28 131, it says, "Hi, Robert."

1 Why don't you take a look at that email.

2 A. Thank you. I've read it.

3 Q. Okay. It states, "Hi, Robert."

4 Back on this issue of ED. Is ED referring to eminent
5 domain?

6 A. Yes. I believe that is exactly what Mr. Hart was
7 referring to.

8 Q. Okay. So this letter was written on May 23, 2020,
9 -- or this email.

10 So it was, effectively, written one week after the letter
11 that we just discussed that was sent to Mr. Meyer on May 16,
12 2020. Is that correct?

13 A. Yes.

14 Q. And -- and then the second sentence of this email
15 says, "Is this site good enough to justify using ED if we
16 don't get a reply to your letter? We need to come up with our
17 plan."

18 "And, Robert, you have indicated that the property on the
19 other side of the tracks, Dudley, is probably more difficult,
20 as it is more developed."

21 "This one is vacant, and largely inexpensive today. All
22 the buildings are temporary or mobile."

23 "I am fine with either approach, but want to make that
24 plan about what we are going to do on this side of the hill."

25 I'm sorry. I read that wrong. "I do want to make a plan
26 about what we want to do on this side of the hill, which
27 property would you want to pursue unilaterally."

28 And the reference of pursuing unilaterally, is that meant

1 to be a reference to taking someone's property through the
2 process of eminent domain?

3 A. It's Mr. Hart's email, so I'm not going to speak
4 for what his thought was.

5 Q. When you read this email, did you understand what
6 his thought was?

7 A. You know, he is contemplating back to the issue of
8 ED, and he's asking me an opinion on if the site is good
9 enough to justify using ED.

10 And that is certainly an opinion not for me. That's for
11 legal counsel. So I --

12 Q. Okay. But my question to you is when you -- when
13 you read this email, you understand that he was talking about
14 potentially taking the property via eminent domain. Is that
15 correct?

16 A. Yes.

17 Q. Additionally, this email reflects that -- states,
18 "Robert, you have indicated that the property on the other
19 side of the tracks, Dudley, is probably more difficult, as it
20 is more developed." Is that a true statement?

21 A. That it indicated that the property on the other
22 side of the tracks would be more difficult?

23 Q. As it is more developed, yes?

24 A. It is certainly a more difficult piece of property
25 because of the natural barriers that present themselves.

26 Q. But my question to you is that did you, Robert,
27 indicate that the property on the other side of the tracks,
28 Dudley, is more difficult because it is more developed?

1 Did you make that representation to Mike Hart at some
2 point?

3 A. I may have in a phone conversation.

4 Q. Okay. So one of the factors -- or, in this case,
5 would it be true to say that the Dudley property -- a major
6 factor in determining whether it was a major parcel to take or
7 to buy was that it was more developed and would cost more
8 money?

9 A. I think that that wasn't necessarily a factor in
10 that it's a heck of a lot easier to work with a clean canvas,
11 bare piece of property than to work around existing
12 infrastructure that you are not going to use.

13 Q. Okay. But, again, was cost not a factor in
14 purchasing the Dudley property?

15 A. We didn't even talk about a number with the owner.

16 Q. Was cost a factor in purchasing the Dudley
17 property, how much it would cost to purchase?

18 A. At this point, I would have to say no, simply
19 because I never had a conversation with Mr. Dudley's son about
20 the price.

21 Q. Okay. So as of this -- as of this email of
22 May 23rd that was sent one week after the letter was sent to
23 Mr. Meyer, had you -- do you know if you received any type of
24 a response from Mr. Meyer at that time?

25 A. I don't recall.

26 Q. Well, the second sentence of this e-mail says, "Is
27 this site good enough to justify using ED if we don't get a
28 reply to your letter?"

1 Would it be correct to infer that probably you had not
2 received a response from Mr. Meyer at that particular time?

3 A. Again, just because I -- if I would have received
4 a response from Mr. Meyer, that wouldn't indicate that I would
5 pick up the phone immediately and call Mr. Hart.

6 That's not how I conduct the operations of my company.

7 Q. Okay. So you don't know if you had received a
8 response at that time. Is that correct?

9 A. I believe in subsequent email, that may have come
10 up in relation to the subject property.

11 I didn't speak to Mr. Meyer until much later in May. I
12 think it may have been into June. So that's at least what I
13 remember.

14 Q. And this -- in this email, it also states at the
15 last sentence, "I am fine with either approach, but do not
16 want to make a plan on what we are going to do."

17 Excuse me, I keep saying that incorrectly. "I am fine
18 with either approach, but do want to make a plan about what we
19 are going to do on this side of the hill."

20 It appears at that time Mendocino Railway did not have a
21 plan for this site?

22 A. For Mr. Meyer's site?

23 Q. For any site?

24 A. We had ideas and an ongoing discussion.

25 Q. You did not have a specific plan?

26 A. That is correct.

27 Q. But even without a plan, you were initially
28 discussing taking property by eminent domain. Is that

1 correct?

2 A. Based on the emails, yes. Yes.

3 Q. Okay. I'd like to go to the next email on page
4 130. It's an email from Mr. Hart to Robert Pinoli. Why don't
5 you read it?

6 MR. BLOCK: What is the date?

7 BY MR. JOHNSON:

8 Q. May 28, 2020.

9 A. Okay.

10 Q. If you look at the last sentence of this e-mail
11 from Mr. Hart to you, it says, "I just know that we need to
12 figure out where it is going to be so we can start planning
13 budgeting and finding the money to make it happen."

14 Do you see that?

15 A. I do.

16 Q. Was -- was budgeting and finding the money factors
17 in determining what site was most appropriate?

18 A. I think it's, you know, Mr. Hart, as I described
19 yesterday, is a serial entrepreneur, in that he's flying at
20 60,000 feet when others often fly at 30,000 feet.

21 He's also an extremely anxious person, in that, in his
22 opinion, everything needs to be done ASAP. And I'm a more
23 methodical person, and that's how I run the organization.

24 So I think that what he's trying to convey here is his
25 sense of, you know, let's get something done. Let's keep the
26 project moving forward.

27 He's not putting anything on the back burner.

28 Q. Okay. But my question is was budgeting and

1 finding the money to make the project happen a factor in your
2 analysis of what was the proper site?

3 A. It was a comment that Mr. Hart made, and it was
4 not necessarily a factor in my decision. I -- my decision was
5 based on what would work best for the ongoing and future
6 operations of the railroad.

7 Q. Okay. Now, the decision on the -- on the site was
8 made, effectively, by you and Mr. Mike Hart. Is that correct?

9 A. Yes.

10 Q. And you collectively made the decision on what's
11 the proper site?

12 A. We did.

13 Q. And as part of that analysis, did at some point
14 budgeting and finding the money to make the project happen go
15 into the analysis of what is the proper site?

16 A. I think in our -- in our -- in our many
17 discussions that we had, you know, we're talking about what it
18 is going to take to fully develop a site.

19 And so, yes, I would say that we did have those
20 discussions. And that was, you know, part of our ongoing
21 conversations.

22 Q. Okay. so this -- this e-mail that we just
23 discussed was May 28th.

24 If you go to the e-mail on the same page, above it, it is
25 dated almost a month later. It's January -- excuse me,
26 June 26, 2020. And it's an email from you.

27 And I would imagine this email was to Mike Hart as well.
28 Is that correct?

1 A. Yes. I would -- yes, it would probably have been
2 replying in thread.

3 Q. Okay. So the sentence below, the first sentence
4 says, "I guess all our conversations have been via phone since
5 this last email. I can't find a more recent email in the
6 thread."

7 So it would appear that you were -- you were,
8 effectively, responding to the email thread relating to this
9 subject. Is that correct?

10 A. Yes.

11 Q. Can you read this email to yourself, please?

12 A. I've read the email.

13 Q. Okay. In the first paragraph, there is a dot, and
14 then it says, "KOA. I spoke with Zack today. His cousin, who
15 is his main partner, would be willing to sell."

16 "Zack tossed out a number of 5,000,000. He said that is
17 about the going rate for a park that generates 1,000,000
18 annually."

19 "They purchased it for 3.3, or somewhere about, and put
20 in a few hundred thousand. They were also open to a
21 partnership, and want us to suggest the arrangement."

22 "Frankly, an outright purchase would be cleanest."

23 That paragraph is -- would it be correct to say that in
24 that paragraph, you are referring to making contact with Zack,
25 one of the partners at the KOA campground?

26 A. That is correct.

27 Q. So at this time by June 26, 2020, you had had
28 conversations with the KOA about the potential purchase?

1 A. Yes.

2 Q. So that was being done in conjunction, or at the
3 same time with your conversations that you were potentially
4 having with Mr. Meyer?

5 A. That is correct.

6 Q. And, then, if you go down the next paragraph in
7 this email, it says -- there is a dot, and then it says,
8 "Meyer. I spoke with John today, and he said he was going to
9 contemplate this over the weekend, and get back to me over
10 Wednesday evening."

11 "If he doesn't welcome me reaching out to him again, I
12 suspect he's going to want 450,000 as a starting point. I
13 don't think we offend him if we offer \$400,000."

14 "He seemed hellbent on wanting to do the well and septic.
15 I said, 'If you sell it to us, we'll do it,' as to not create
16 further delay."

17 Is it your understanding that that paragraph is relating
18 to conversations you had with John Meyer regarding the subject
19 property?

20 A. Yes.

21 Q. And at that time, was Mr. Meyer developing -- in
22 the process of developing his property?

23 A. I wouldn't say in the process of developing. He
24 was contemplating, based on the phone conversation that we
25 had.

26 Q. Well, your email says he seemed hellbent on
27 wanting to do well and septic?

28 A. As I recall from the conversation that I had with

1 Mr. Meyer, he was looking to find ways to improve the value of
2 his property.

3 And I had indicated that for our purposes, let us deal
4 with the well and the septic because we -- based on what we're
5 going to put in there, we would want to have a say as to where
6 those go.

7 Q. But at that particular time, didn't he have a well
8 permit and a septic permit? Do you know?

9 A. That I do not know.

10 Q. So you don't know if he was in the process of
11 putting in a well and a septic system at that particular time?

12 A. I do not know that.

13 Q. So it appearing that by June -- would it be
14 correct to say by June 26, 2020, the two main sites that you
15 were evaluating for your project were the KOA site and the
16 Meyer property?

17 A. Based on this email, yes.

18 Q. Okay. Even not based on this email, is it correct
19 to say that at this particular time, those were the two sites
20 you were focusing on?

21 A. I think it is fair to say that.

22 Q. If you go to the next page, that's page 129, there
23 is an email from Mike Hart to you, Jeff Miller, and Chris
24 Hart. It's dated June 27, 2020.

25 Will you read that, please?

26 A. I've read the email.

27 Q. It states, "Thank you. Thank you for the update,
28 Robert." And then it, again, goes into an evaluation of the

1 KOA site, it appears.

2 It says, "KOA would certainly be the most interesting
3 place for us to locate, from their 93 spaces. I don't know
4 what their EBITDA might be, but for the 3.3 million they paid,
5 it would need to have at least 330,000 profit, I would think."

6 "I don't think the market has improved with time and
7 circumstances. But this is a negotiation, and they are
8 starting high."

9 Do you know why he -- Mr. Hart said that this would --
10 the KOA would certainly be the most interesting site for us to
11 locate?

12 A. Not -- I'm not sure what -- what his thinking was
13 there.

14 Q. So when -- when -- when -- would it be common when
15 Mr. Hart would send you emails and you wouldn't understand
16 what he was thinking, that you wouldn't follow up with
17 questions about that?

18 A. Not every email that Mr. Hart sends gets a
19 response.

20 Q. What about emails about eminent domain and the
21 taking of people's property? They didn't justify a response,
22 either?

23 A. At this point in time, we hadn't started the
24 process of eminent domain.

25 Q. It had been discussed. Is that right?

26 A. It had been.

27 Q. So is it common for you and Mr. Hart not to
28 understand each other when you have discussions?

1 A. Sometimes, even after a 20-year business
2 relationship, there can be misunderstandings.

3 Q. Okay. And the reference to 93 stations, is that a
4 reference to 93 RV or camping spaces?

5 A. I believe it is.

6 Q. And the reference to EBITDA, does that refer to
7 earnings before interest, taxes, and appreciation?

8 A. That is correct.

9 Q. That is a financial or accounting term?

10 A. It is an accounting term.

11 Q. In this email, the evaluation of the KOA
12 campground is being analyzed. It appears that the key issue
13 is the return on investment. Is that correct?

14 A. Yes. That is correct.

15 Q. The section below states, "Meyer. Interesting
16 option. Well and septic are both important for us too."

17 "Odd he is pushing to get it done immediately. Given the
18 number of campers he has on site, I wonder if he is just
19 dumping illegally right now, or if there is an old system."

20 "400,000 for a new site strikes me as a bargain. The
21 issue is just if we are better off on a green field on the
22 other side of the highway, or not."

23 The reference to green field, is that, like, an open
24 area?

25 A. I think -- no. I believe it is a reference to the
26 -- if there are any environmental considerations, or
27 environmental restrictions related to the Cutter property.

28 Q. The Cutter property, or Meyer property?

1 A. The Cutter property. The Cutter Lumber Mill
2 across the street.

3 Q. Oh. So this reference to green field is to the
4 Cutter property?

5 A. I believe that is what it is referencing, because
6 green field is an environmental term.

7 Q. So at that particular time, you were still
8 evaluating the Cutter property as well?

9 A. After reading this email, it appears that way.

10 Q. And it also appears that, at least from
11 Mr. Meyer's property, the evaluation of prices is definitely a
12 factor in whether or not that would be an appropriate site.
13 Is that correct?

14 A. It appears that that is correct.

15 Q. The KOA campground, it had or has when you were
16 evaluating it 93 spaces for camping and RV parking. What else
17 does it have on it that you are aware of?

18 A. I'm sorry. What was the question? What else does
19 the KOA have on it?

20 Q. Yeah. What are the improvements that you are
21 aware of on the KOA property?

22 A. Oh. There are restroom buildings. I believe
23 there are shower facilities in there. There are outbuildings
24 for maintenance.

25 There is a front office building in the store. I don't
26 believe they have their petting zoo active any more.

27 And the sites, as I recall, up to the front of the
28 property contain full service hookups for RVers. So full

1 service, meaning electrical, sewer, water.

2 Q. Is there a pool?

3 A. I believe there is a pool.

4 Q. And is there a camping area?

5 A. Yes. I suppose you could put tents up, although I
6 oftentimes see -- have always seen travel trailers. I don't
7 know that I've seen tents.

8 Q. Okay. And is there a miniature golf course?

9 A. That I do not recall.

10 Q. Okay. And is there -- there are some permanent
11 buildings for -- that people can stay in as well. Is that
12 correct? Cabins?

13 A. Yes. They do have what they call their camping
14 cabins. They spell each with a "K". Yes.

15 Q. So at that particular time, you felt that having
16 your train station right next to that or on that property
17 would potentially be acceptable?

18 A. There were certain -- at the time, yes. I recall
19 doing a walk-through of the property, and, as I spoke to
20 yesterday, certainly a lot of logistical issues primarily
21 related to ingress and egress.

22 And then the fact that the property is divided by a
23 creek, not to mention that it is a very narrow piece of
24 property, and that there are other natural barriers that
25 really preclude it from growing beyond its existing footprint,
26 meaning that the up slope, change in elevation is pretty
27 significant.

28 (Respondent's Exhibit Q was marked for identification.)

1 MR. BLOCK: This is Q?

2 BY MR. JOHNSON:

3 Q. Yes. Q.

4 Mr. Pinoli, this is an aerial photograph that has been
5 marked Exhibit Q. On it, there is a portion of a parcel that
6 looks like a part of it was, effectively, cut off.

7 But, for the most part, a -- a representation -- I would
8 represent that this red parcel is the KOA Campground property.
9 Is that correct?

10 A. As I recall from the -- the -- when I walked the
11 property, this parcel also includes the parcel to the north of
12 it that has the body of water.

13 So that is also part of the KOA property.

14 Q. Okay. All right. So -- so just to clarify for
15 the record, the KOA property would consist of, potentially,
16 two parcels, the one parcel on Exhibit Q that has the red line
17 around it, and then, additionally, there is another parcel to
18 the north, which is reflected with not as bold of a line, that
19 has a large pond on it. Is that correct?

20 A. That is correct.

21 Q. So when you're talking about evaluating, or
22 Mendocino Railway evaluating the KOA parcel, they would
23 reflect this parcel in bold, and the parcel with the pond on
24 it. Is that right?

25 A. Yes.

26 Q. Will you just draw a line around that pond parcel
27 as well, please?

28 A. Sure. I've done that.

1 Q. And the Mendocino Railway and your team studied
2 the KOA parcel for quite a while. Is that correct?

3 A. We did spend a bit of time on it.

4 Q. And where is the existing entrance to the KOA
5 Campground where you access it?

6 A. It's almost cutoff by this aerial image.

7 In fact, it is actually cutoff by this aerial image. To
8 the right of the parcel that is highlighted in red -- to the
9 right-hand side. It is about mid-page down on this
10 8-and-a-half-by-11.

11 And it is where the two darker red lines sort of come
12 together at a head, if you will. That is about where the
13 entrance to the parcel is.

14 Q. Okay. So, effectively, to access the parcel, you
15 come in off Highway 20, which is cut off a little on there,
16 and then you enter through this area, which looks like it's
17 been developed. Is that correct?

18 A. Yes. And if it is helpful, I would be happy to
19 show you on Exhibit 3.

20 Q. Sure.

21 A. So this right here where I am pointing to is the
22 entrance to the KOA.

23 Q. Right. Okay. Thank you.

24 A. You're welcome.

25 Q. So the way the entrance is set up, if you were
26 going to use this parcel for a railroad to access it by car or
27 truck, you would have to drive through all of the -- or,
28 effectively, drive through much of the improvements on the

1 property. Is that right?

2 A. Yes. And that's a limiting factor to this
3 property.

4 There is I will say a secondary road when the driveway
5 comes in off of Highway 20 that splits and goes up behind the
6 infrastructure of the buildings, but it is too steep.

7 We evaluated that for possible ingress and egress
8 options.

9 You would -- you would have to move buildings, and it
10 doesn't solve or resolve the problem that it will come to a
11 head at the intersection just before the intersection of
12 Highway 20.

13 Q. So it really doesn't look like this property is
14 very conducive to transloading, and offloading, and
15 freight-type operations. Is that correct?

16 A. That is correct.

17 Q. So why did -- why did the Mendocino Railway spend
18 so much time evaluating this particular parcel?

19 If its main goal, based on what you stated yesterday, is
20 freight, why would they even spend time looking at this
21 parcel?

22 A. Again, it's one of those things that I -- that
23 Mr. Hart was -- wanted to flush out in its entirety, and we
24 did so accordingly.

25 Q. So you believe that -- that your train operations,
26 and your transloading, and your wyes, and your maintenance
27 yards, that type of operation with large trucks and traffic is
28 consistent or would function with the KOA. Is that correct?

1 A. It would not function at the KOA property. You
2 would not be able to do transloading or install a wye because
3 of a variety of -- of issues with the property.

4 Q. So I -- and so why did you spend months evaluating
5 this property?

6 A. Again, I -- as I mentioned before, Mr. Hart wanted
7 to have -- continued the conversation, and so we did.

8 But in the end, it's certainly not the property for all
9 of the reasons I have stated.

10 Q. It seems like you are a very assertive person who
11 is very well aware of the operation, or what is required to
12 operate a railroad, given your experience.

13 It just seems odd that if the main focus was freight,
14 that this site would be evaluated for months, don't you think?

15 A. Sometimes in relationships, personal and
16 professional, we have to go down roads that we may not want to
17 travel, and, as a result of that, you know, conversations tend
18 to drag on longer than some of us would like.

19 Q. Okay. We've started on the first email that we've
20 discussed, which was January 17, 2020. And now we're on the
21 email -- we're discussing the email I believe from June 27th.

22 So it's, effectively, over six months of emails on this
23 issue. And I don't recall seeing one reference to the word
24 freight in any of them.

25 Is there a reason why freight was never discussed in
26 these emails for some reason?

27 A. I'm not certain why it wouldn't have been
28 discussed. I know that it was a part of our verbal

1 conversations.

2 Q. Okay. I'd like you to go to page 128.

3 And if you go to the bottom of the page on 128, there is
4 an email dated 1/27 from yourself to Mr. Hart, Jeff Miller,
5 and Chris Hart.

6 Jeff Miller, he is your financial analysis person?

7 A. Yeah. He is our chief financial officer.

8 Q. Okay. And I believe you said Chris Hart is the
9 vice president?

10 A. Chris Hart is the vice president of business
11 development.

12 Q. Okay. If you go to page 129, that email continues
13 on that page. It says the KOA -- I am going to move forward,
14 so we can review their numbers.

15 Is that -- is that a reference to you're going to ask
16 Zack to provide you with their financial documents of KOA?

17 A. I believe so, yes.

18 Q. And, then, the next paragraph says, "Meyer, I have
19 since yesterday afternoon learned that he is stalling because
20 he is trying to play a property swap tax game."

21 "He wants to -- to 1031 this for a property in Puerto
22 Rico, which he can't do, since the rules governing 1031
23 prevent that."

24 "He suggested us buying the property in PR, and then
25 swapping it with this property to avoid cap gains, which he
26 will not accomplish, either."

27 So at that particular time, were you in discussions with
28 Mr. Meyer to do a property purchase, or 1031 exchange sale?

1 A. A property purchase, yes.

2 Q. So at this particular time, you thought the KOA
3 site was appropriate enough that you would spend the time and
4 energy evaluating their finances. Is that correct?

5 A. That I was going to have Jeff Miller evaluate
6 their finances. I wasn't going to evaluate them other than
7 from a cursory overlook.

8 Q. At that particular time, though, you thought it
9 was appropriate for Mendocino Railway to spend the time,
10 energy, and effort of their chief financial officer to
11 evaluate the KOA financial documents. Is that correct?

12 A. Yes.

13 Q. And their financial documents did play a role in
14 your evaluation of the site. Is that correct?

15 A. It was one of the reasons that got me out to go
16 and look at the site, and walk the site, and make a final
17 determination.

18 Q. Okay. If you go to the next page, or go back up
19 to the page 128, the email above says on June 27th -- it's an
20 email from Chris Hart that states, "For Meyer property, would
21 a friendly eminent domain possibly buy him a couple of years?"

22 "From a negative point of view, I suppose it starts the
23 clock on him doing something, but at least then he'd have cash
24 in hand and time to act. Chris."

25 Do you know what he's referring to?

26 A. I think Mr. Hart is referring to a process whereby
27 one could enter into a stipulated arrangement for the sale and
28 have tax benefits as a result of that, which would be

1 considered a 1033 under the IRS code, not a 1031.

2 Q. A 1033 exchange?

3 A. Yes.

4 Q. And that refers to an exchange that arises out of
5 an eminent domain action?

6 A. That's correct.

7 Q. So it appears that your company was familiar with
8 the eminent domain process at that particular time?

9 A. Yes.

10 Q. And, then, if you go to the next page -- excuse
11 me, the next email above, it says -- it's an email from Mike
12 Hart to Chris Hart, to your self, and Jeff Miller.

13 It says, "Excellent point."

14 So, again, at that time, Mr. Hart, the CEO, was aware of
15 the benefits of potentially having an eminent domain action,
16 and, also, was involved with an eminent domain action. Is
17 that correct?

18 A. Based on his response, it would appear so.

19 Q. And, then, if you go to the page 127, at the
20 bottom there is an email dated June 27, 2020, from you that
21 stated on page 128, "What does friendly ED get us besides
22 added legal cost?" question mark.

23 Is that your understanding, or is that your belief at
24 that particular time that eminent domain might not be a good
25 idea?

26 A. A friendly eminent domain process might not be a
27 good idea. It was a question that I was raising to ask the
28 group what their thought was.

1 Q. If you go to the email above that on 127, again,
2 it's an email from Chris Hart. And it says, "Only suggested
3 ED if it was needed to make the deal happen."

4 Is it your opinion that this eminent domain action was
5 filed on Mr. Meyer to put pressure on him to sell the property
6 to you?

7 A. No. That is not my understanding.

8 Q. And was the eminent domain action filed to somehow
9 put Mr. Meyer in a disadvantage, as far as the negotiation is
10 concerned, for the sale of the property?

11 A. Absolutely not.

12 Q. Was that a factor in filing the eminent domain
13 action for Mendocino Railway?

14 A. I'm sorry. Was what a factor?

15 Q. Was -- was one of the factors of the reason -- or
16 one of the reasons why the eminent domain action was filed
17 against Mr. Meyer would be to put him in some difficult
18 position?

19 A. No. Not to put him in a difficult position at
20 all.

21 Q. If you go to the next email, dated June 28th on
22 page 127, it is from Jeff Miller to Mike Hart, Chris Hart, and
23 yourself.

24 It states Robert, "It sounds like some good options. Let
25 me know when you get the KOA financials."

26 "I would think with the uncertainty, they may end up just
27 trying to get back what they paid out of it, but we will see."

28 "I wonder if we should do a matrix of pros and cons with

1 these properties."

2 "I think in the end, if something is visible, it will
3 attract traffic. KOA campers could be a consistent source for
4 rail lags."

5 "Best regards. Jeff Miller."

6 At this particular time, it appears that the main issue
7 in evaluating these properties is their financial return to
8 Mendocino Railway. Is that correct?

9 A. Well, with the consideration of the KOA, I mean,
10 there was more than just simply bare land. It was an
11 operating business, so that was a whole other layer of
12 complexities.

13 Q. So to answer my question, though, my question is
14 at this particular time that you're analyzing the Meyer
15 property and the KOA property, it appears that the major focus
16 is on what the financial return would be to Mendocino Railway.
17 Is that correct?

18 A. Yes. Based on the fact that the KOA property is
19 not a bare land piece of property.

20 Q. But you were also factoring that financial impact
21 and the financial analysis of potentially purchasing
22 Mr. Meyer's property and comparing that with the financial
23 return you would receive at Mendocino Railway and purchasing
24 the KOA property. Is that correct?

25 A. I'm sorry. Would you repeat the question, please?

26 Q. Well, you stated that you were analyzing the KOA
27 property financials to figure out what the return on
28 investment was. Is that correct?

1 A. That is correct.

2 Q. And at that particular time, you were evaluating
3 the Meyer property and the KOA property. Is that correct?

4 A. That is correct.

5 Q. And in conjunction with evaluating both of those
6 properties, I would expect that, also, while you were
7 evaluating the financial return on the KOA property, you were
8 also evaluating the KOA return you would receive if you were
9 to evaluate the Meyer property. Is that correct?

10 A. Yes. Thank you. That is a fair assessment.

11 Q. Okay. If you go to page 126, there is an email
12 dated June 30, 2020, from you.

13 It says, "Gentlemen, in the attached email are three
14 attachments from Willits KOA: A few things to note," and then
15 it talks about the gross income expense, net operating income,
16 net income, and the 2019 P and Ls.

17 That's a profit and loss. Is that what that relates too?

18 A. Yes.

19 Q. There is also a refund on TOT. What is that?

20 A. Transit occupancy tax.

21 Q. And there is a reference to long-term rentals
22 range. Do you see that?

23 A. Yes.

24 Q. And that -- that talks about the financial return
25 on long-term rents. Is that correct?

26 A. That is correct.

27 Q. And, then, we have references to management fees
28 and licensing fees, expenses. Is that correct?

1 A. That is correct.

2 Q. So at this particular time, would that be the time
3 that the financials were obtained by Mendocino Railway for the
4 KOA?

5 A. It appears, yes.

6 Q. And at that time, you had briefly gone through the
7 finances, and incorporated some of the major materials in this
8 email. Is that right?

9 A. Some of the highlights.

10 Q. And then did you provide the financial
11 documentation to Mr. Miller, Mike Hart, Chris Hart, and Torgny
12 Nillson?

13 A. Yes.

14 Q. Okay. We'll go on to the next -- the next page is
15 108, which is the letter we discussed. And then it looks like
16 this is a new email chain.

17 We'll go on to -- do you want to take a break, Your
18 Honor?

19 THE COURT: Yes. I was just going to say it looks
20 like you're going into a new area, and I've got to respond to
21 a couple things. So that would be great if we can take a
22 break. So 10:45. I mean, 9:45. 10:45.

23 (Recess)

24 THE COURT: All right. Let's go back on the
25 record.

26 BY MR. JOHNSON:

27 Q. Mr. Pinoli, I'd ask that you get out the big
28 binder. And if you could look at Exhibit 33?

1 There's Exhibit 33. In there, there's a reference to
2 page 171. It has a map on it. It's a much higher quality map
3 than the one that we have here.

4 Exhibit 33-75. I'm sorry. Do you see that?

5 A. I do.

6 Q. Will you briefly look at this map, and then review
7 this email? And I have some questions.

8 A. All right.

9 Q. Okay. This is an email. It is -- in Exhibit 33,
10 it's Exhibit 33-75. And then it goes over to Exhibit 33-76.
11 And it's an email dated July 19, 2020, from Mike Hart. Is
12 that correct?

13 A. Yes.

14 Q. And do you recall receiving a copy of this email?

15 A. I do recall.

16 Q. Okay. And on top of the email is it looks like an
17 aerial photograph of the Meyer property with some references
18 that we'll go over. Is that correct?

19 A. Yes.

20 Q. And is it your understanding that Mike Hart
21 prepared this document or had this document prepared, this
22 map?

23 A. Yes.

24 Q. Mike Hart is your boss. Is that correct?

25 A. He is the president and CEO of CR Railroad
26 Company, and I report to the board of Mendocino Railway.

27 Q. Do you report to Mr. Hart?

28 A. I do.

1 Q. Was it your understanding this map was prepared on
2 or around July 19, 2020?

3 A. Based on email date, I would say it is possible
4 that yes.

5 Q. Okay. And that's approximately seven months after
6 this -- the site analysis began for the next project or train
7 station parcel. Is that correct?

8 A. Yes.

9 Q. And is it your understanding that this map
10 represents, generally, the site map that would be used for the
11 development of the Meyer property by Mendocino Railway?

12 A. I'm sorry. Would you repeat that question,
13 please?

14 Q. At the time of July 19th, was this, basically, the
15 outline of the -- of the proposal for the use of the Meyer
16 property if the Mendocino Railway were to purchase it?

17 A. It was a suggestion by Mr. Hart. It wasn't the
18 company's decision.

19 Q. Okay. So at that particular time, a formal
20 decision had not been made. Is that correct?

21 A. That's correct.

22 Q. But this was his proposal. Is that for discussion
23 purposes?

24 A. It is his sketch.

25 Q. So just to go through this sketch a little, at the
26 top there, in -- in yellow in the middle of the map, it says
27 Park RR Coaches, Advertising Along The Road.

28 Does that RR coaches refer to railroad coaches?

1 A. I believe it does, yes.

2 Q. And then there's a yellow line that bisects the
3 property, and it seems to attach to Highway 20 at two points,
4 and says Access Road on I. Do you see that?

5 A. I do.

6 Q. So would that be like the road that would access
7 the parcel?

8 A. Based on this sketch, that is an idea, yes.

9 Q. And then on the left side it says same area as KOA
10 long term RV rental park. Do you see that?

11 A. I do.

12 Q. All right. So under this, would it be correct to
13 say under this sketch, the thought process at that particular
14 time would be to have a rental -- RV rental park similar to
15 the KOA. Is that right?

16 A. That was one of Mike's ideas.

17 Q. And do you recall that the KOA had 93 rental RV
18 spaces? Is that right?

19 A. I believe we spoke of that 93 number earlier
20 today, yes.

21 Q. Okay. And, then, it appears that in the middle,
22 there is some parking that's referenced. Is that right?

23 A. Yes.

24 Q. And, then, at the bottom near the railroad, it
25 says Station Store, right?

26 A. I see that.

27 Q. Okay. That would be like the train depo station.
28 Is that right?

1 A. Based on its description, yes.

2 Q. And then on the right, it says, "Same area as KOA
3 primary campground, but with better shade and creek."

4 Is it your understanding that this area would, then, be
5 used for a primary campground by the train passengers?

6 A. Well, based on the description of primary
7 campground. It doesn't say anything about train passengers.

8 Q. Okay. And, then, the blue. That's a creek? The
9 blue portion?

10 A. Yes. That is consistent with where the -- the
11 waterways are for this area.

12 Q. Okay. I'd like to refer to the text on this
13 document.

14 If you go to the -- the second paragraph on this email, I
15 says, essentially, "I took the reported figures by month. And
16 only 2019 is complete, unless these other rents are not
17 reflected."

18 "I then modified the categories where I thought we would
19 do better than the current model, most, notably, their entire
20 staff cost is running the front office, which would directly
21 merge with our ticketing office. So very likely it would see
22 a total coverage of this cost."

23 Is this an analysis of -- or represents a partial
24 analysis of what cost savings may occur if the Mendocino
25 Railway were to take over the KOA Campground?

26 A. I think it is fair to say that that is what is
27 going on.

28 Q. And then the next sentence says, "I also agree

1 with the notion that KOA does nothing for us. I'm happy to
2 drop the need for that royalty."

3 That reflects a royalty that is paid to the company that
4 operates what effectively is a franchise, the KOA franchise.
5 Is that right?

6 A. That's correct.

7 Q. And then it states, "If we were to build from
8 scratch, it would definitely cover the parking area with solar
9 shades, and that could have a big impact on the utility bill."

10 So that's a reference to building a KOA-type campground
11 from scratch. Is that correct?

12 A. That's what it indicates.

13 Q. I won't go through the rest of this, this next
14 paragraph, but it appears that there is a financial analysis
15 that is going on as far as the operation of the KOA. Is that
16 correct?

17 A. Yes. That is correct.

18 Q. And then if you go to page 172, it states in the
19 first paragraph, "The alternative is to go to the Meyer
20 property across the street, which can probably buy for
21 400,000."

22 "I marked the area to match their long-term parking area
23 to the left and their current RV park to the right."

24 "I then placed our center store in the center, with
25 parking around the whole central region."

26 "Visibility is great, and we can add some RR equipment on
27 the road to get some additional attention."

28 "Although this is only 20 acres, versus the 36 acres, we

1 actually end up with more useable space here and loading area,
2 station, shops, et cetera."

3 Do you see that?

4 A. I do.

5 Q. So at this particular time in July 2020, Mr. Hart
6 at least had a plan to make -- use the Meyer property in the
7 fashion that is reflected in the map on Exhibit 33-75. Is
8 that correct?

9 A. I'm sorry. Would you repeat that question,
10 please?

11 Q. At the time this email was written, it appears
12 that Mr. Hart's plan of use for the Meyer property would be
13 what was reflected in the map?

14 A. Yes.

15 Q. And at that particular time, it definitely does
16 not look like there is any reference to transloading. Is that
17 correct?

18 A. There is no written reference to transloading.

19 Q. Okay. It doesn't appear that there is a reference
20 to a wye, as has been discussed. Is that correct?

21 A. There is no written reference to wye.

22 Q. There is also no reference on here to a
23 maintenance area. Is that right?

24 A. And there is no written reference to a maintenance
25 area.

26 Q. And there is no reference to a pit. Is that
27 correct?

28 A. And there is no written reference to a pit.

1 Q. All right. And there seems to be no written
2 reference to an area that would be used for freight. Is that
3 correct?

4 A. And there is no written reference that would be
5 used for freight.

6 Q. The next paragraph of this email says the math.
7 "So if the KOA owners would sell for 4,000,000, rather
8 than 5,000,000, as they indicated with Robert, we would have
9 to adjust the Meyer property to adjust in value."

10 "We would induct the \$400 to purchase."

11 "We would then have 3,600,000 for infrastructure, et
12 cetera."

13 "If we wanted to run the RV park, to build 93 spaces on
14 average would cost just under 2,000,000, based on the average
15 RV park costs."

16 "We would then have 1.6 million to cover the costs of a
17 new pool, amenities, landscaping, main road, et cetera."

18 Do you see that?

19 A. I do.

20 Q. And so in this particular paragraph, Mr. Hart is
21 figuring out the math, and he is specifically evaluating the
22 costs relating to buying the KOA versus effectively creating
23 the same type of infrastructure on the Meyer property. Is
24 that right?

25 A. He's having that -- yes. Having that written
26 discussion.

27 Q. Including building a pool, correct?

28 A. That's what it says, yes.

1 Q. And, then, if you go down -- skip the one sentence
2 and go down to the next paragraph, it says, "My opinion is the
3 Meyer property is a huge capitalize advantage for you, as we
4 would end up with new infrastructures designed in the way that
5 helps lower cost."

6 "We get great highway visibility, and a really nice place
7 to build our station, et cetera."

8 Do can you see that?

9 A. I do.

10 Q. And so it appears that at this point Mr. Hart is
11 -- is explaining his opinion as to which opinion is better for
12 your needs. Is that correct?

13 A. Yes. He is explaining his opinion.

14 Q. And it appears that -- based on this email that
15 the major issues were return on investment, costs involved in
16 constructing or buying the infrastructure desired by Mendocino
17 Railway, and visibility. Is that correct?

18 A. Based on this email, those are his comments.

19 Q. At least at this point, there has been no
20 evaluation of whether or not the property would be for the
21 greatest public good or the least private injury as caused by
22 the eminent domain law. Is that correct?

23 A. I don't know if I necessarily agree. Mr. Hart put
24 in all caps, "If we wanted to run the RV park," with an
25 exclamation point following that sentence.

26 And I think that right there is, you know, the catalyst
27 for us internally to have changed our conversation.

28 Frankly, again, you know, going down the road and

1 entertaining his ideas and notions is one part of the job, but
2 maintaining a safe, responsible company that can grow is my
3 part of the job.

4 Q. And at this point, the alternatives were being
5 evaluated for the different sites, and it doesn't appear that
6 the requirements required by the eminent domain laws were
7 really being factored into these discussions. Is that
8 correct?

9 A. I don't think Mr. Hart was factoring that into the
10 discussion at the time.

11 Q. Were you factoring it at the time, Mr. Pinoli?

12 A. It is certainly something I was evaluating, as I
13 had weeded out the other properties we talked about yesterday
14 in comparison to the subject property.

15 You know, I was evaluating what property would be for the
16 best interest of the railroad's ability to grow, and that
17 didn't create harm.

18 Q. And were you evaluating at this point the impact
19 that taking Mr. Meyer's property may have on him?

20 A. It's certainly something that I don't take
21 lightly. And given that it is a bare piece of property, and
22 was a bare piece of property without any improvements, that
23 was the factor for making the decision.

24 Q. Do you mean when Mr. Hart was making this map and
25 coming up with these improvements that he has referenced on
26 here, that he was factoring in whether or not the taking of
27 this property and the use of the Meyer property for this
28 purpose would have the least impact on Mr. Meyer?

1 A. I don't think Mr. Hart was factoring that in when
2 he was doing that sketch.

3 Q. Do you think he is factoring in whether or not
4 this use of the property was for the greatest public good?

5 A. I don't think Mr. Hart was factoring that in at
6 the time he did his sketch, either.

7 Q. And at the time that these emails were discussed,
8 were those issues that you were factoring in?

9 A. Can can you repeat the question.

10 Q. Were you factoring in what would be for the
11 greatest public good when these emails were going out?

12 A. I am looking for ways to efficiently grow the
13 organization, and ways to get more trucks off of the highway,
14 and put rail back to an effective use.

15 Q. So your main focus was how to effectively
16 efficiently operate your railroad. Is that correct?

17 A. It's what drives me every day.

18 Q. If you go to the same Exhibit 33, it would be
19 Exhibit 33-47 and Exhibit 33-46?

20 A. Okay. 33-46 and 47.

21 Q. Yeah. Would it be correct to say that those are
22 maps that were put together by Mr. Hart at the same time for
23 the KOA property?

24 A. Yes. This is consistent with the previous map
25 that we just viewed. So, yes, I would say that this was
26 something Mr. Hart did.

27 Q. Yeah. I think if you go to page 33-44, you can
28 see where the email starts.

1 A. Yes. Thank you.

2 Q. Yeah. And it's an email from Mike Hart to Robert
3 Pinoli, Jeff Miller, Chris Hart, and Torgny Nillson, dated
4 July 19, 2020. And the subject is KOA or Meyer? Do you
5 recall receiving this email?

6 A. Yes.

7 Q. And this -- this -- this email was sent in
8 conjunction with the other email -- would it be correct to
9 say? -- to make a potential evaluation of the options for the
10 KOA and the Meyer properties?

11 A. That's correct.

12 Q. And if you look at Exhibit 33-46. That's the map.

13 A. Yes.

14 Q. It looks like it states that -- there is the
15 primary campground. It reflects the entrance and access
16 bridge, possible parking, possible station.

17 And -- and then there is a portion that says, "Generates
18 28K per month." Is that right? Do I see that?

19 A. I do.

20 Q. What does that refer to?

21 A. The generates 28K?

22 Q. Yeah.

23 A. As I recall, it refers to their long-term rentals.

24 Q. Okay. And are those like -- what are those?
25 Those are long-term rental of what?

26 A. Folks with RVs who may be working as traveling
27 nurses, or in the county on more than just a transient basis,
28 but are here semi-permanently.

1 Q. Okay. It doesn't appear that this map reflects
2 that parcel to the north that we discussed, or you mentioned
3 earlier in that other map of the KOA. Is that correct?

4 A. Actually, a portion of it does, because I see
5 where it is denoted as, like, behind the trees, and the tip of
6 the reservoir pond, if you will, right behind it.

7 The red line, the dark red line at the north there is a
8 small circle, and it does include a portion of that.

9 Q. Okay. All right. Thank you.

10 So in this map, there is no reference to a transloading
11 area. Is that right?

12 A. There is no reference to a transloading area in
13 this map.

14 Q. And there is no reference to a maintenance
15 facility?

16 A. There is no reference to a maintenance facility
17 for the train.

18 Q. And there is no reference to a pit, correct?

19 A. There is no reference to a pit.

20 Q. And is there a reference to a wye on here?

21 A. There is no reference to a wye.

22 Q. As far as you know, is this the only -- are these
23 maps -- the maps that are referenced on 43 -- or, excuse me,
24 33-46, 33-47, and 33-49, the ones we discussed earlier, are
25 those the only maps that were in place prior to the filing of
26 the -- of the eminent domain lawsuit?

27 A. Are those the only maps.

28 Q. Let me rephrase that.

1 Are those references made to the only site maps that were
2 prepared by Mendocino Railway prior to the -- to the eminent
3 domain lawsuit that was filed against John Meyer?

4 A. I believe in our complaint there is a map that
5 described the property. And as a result, then, the answer
6 would be no, because there would have been another map
7 prepared as attached to the complaint.

8 Q. Okay. So --

9 THE COURT: So, Mr. Johnson, these exhibits, 46
10 and 47, are you calling them maps? Or are they really
11 conceptual drawings?

12 BY MR. JOHNSON:

13 Q. That's a good point, Your Honor. I may have used
14 the wrong term. So as far as my question, let me restate my
15 question.

16 As far as -- let's go with -- with Exhibit 33-49, which
17 is the map of the Meyer property, correct?

18 A. Yes. I have that here.

19 Q. As far as you know, is that the only conceptual
20 drawing that was in place for the Meyer property that was
21 prepared by Mendocino Railway as of the date of the filing of
22 the complaint against Mr. Meyer?

23 A. I do believe that it was. I can't be certain that
24 there wasn't something else. But if there were, we would have
25 produced it.

26 Q. Okay. Thank you.

27 And as far as the map 33-46, are you -- are you aware, or
28 do you know if this is the only conceptual drawing that was

1 prepared by Mendocino Railway as it relates to the potential
2 use of the KOA property?

3 A. Again, I can't be certain. But based on what we
4 have produced, yes.

5 Q. Okay. Thank you.

6 Okay. I'd like -- we can go back now to my binder here,
7 the blue binder.

8 Thank you. If you go to page 163, Exhibit D --

9 MR. BLOCK: We're going back to the defendant's
10 exhibits?

11 BY MR. JOHNSON:

12 Q. Yes. Are you on that page, Mr. Pinoli?

13 A. Yes, I am.

14 Q. Can you look at that email, dated July 20th, from
15 you?

16 A. Okay.

17 Q. Read that for a second.

18 A. Okay. I have read that email.

19 Q. So it appears under the KOA, if you were going to
20 access the KOA campground -- and the way it is referenced in
21 Exhibit 33-46, it would be necessary to go on someone else's
22 property. Is that right?

23 A. Yeah. I contemplate in this email the same thing
24 I referenced earlier, and that is the ingress and egress
25 making it quite difficult.

26 And in the email, I mention the ingress through someone
27 else's property is going to be tricky.

28 Q. Okay. And so it also references that, "If you

1 eliminated the petting zoo, you could get more parking there."

2 "And we could also make that a path to boarding the
3 train."

4 "We also gain some extra land by removing the land next
5 to the property to us."

6 "We can convert the office area to our depo, and fix up
7 the outside. The parallel covered platform along the outside
8 would suffice nicely."

9 It states additional comments below. Did you write that?

10 A. I did.

11 Q. Why didn't you reference anything relating to the
12 need for property for freight in that email where you're
13 discussing how you may change the use of that KOA property?

14 A. Again, in the spirit of the ongoing conversation
15 between Mr. Hart and the group and what I had testified to
16 yesterday, Mr. Hart sometimes likes to go down these roads,
17 and to have these tangential conversations.

18 They're not always fun. They're not always enjoyable,
19 but, at the end of the day, this conversation and this
20 discussion with him was in the continued spirit of the
21 existing thread that was taking place.

22 Q. So would it be correct to say you didn't bring up
23 those issues because you didn't want to hurt Mr. Hart's
24 feelings?

25 A. No. I'm not generally worried about hurting
26 Mr. Hart's feelings. I'm respectful. I'm not going to go out
27 of my way to do that.

28 But, you know, it was probably a conversation -- well, it

1 was a conversation that he and I had via either phone or in
2 person, you know, after the fact that --

3 Q. So it's your testimony, then, that there were
4 discussions for seven months that went on relating to freight
5 and transloading between the time frame of January 2020 and
6 July 2020, but none of these discussions are in these emails.
7 Is that right?

8 A. Yeah. The -- the -- you know, the operation of
9 running our business for seven months during this period was
10 more than just this email exchange between Mr. Hart and
11 myself.

12 Q. Did you think it might be appropriate, given the
13 situation, to come up with your own plan, which might include
14 a conceptual drawing, transloading, freight, and other valued
15 things, like pits and wyes, that you have discussed for the
16 last couple days as being very important?

17 Did you think it would be helpful to reconstruct your own
18 drawing that you could present to Mr. Hart?

19 A. Not necessarily. It goes to -- to what I
20 testified earlier, in that we often have discussions, or
21 business plans, or something that don't always follow suit.

22 Q. So if you go to page 160 -- well, actually, if you
23 go to page 162 -- or, excuse me, 161 is the start of the
24 email.

25 It's an email dated July 20, 2020, at 9:40. It's from
26 Mike Hart to you. It just says, "Thanks. Robert."

27 A. I'm there.

28 Q. Okay. If you want to take a look at this?

1 A. Okay.

2 Q. All right. If you go to the top of page 162, the
3 email states, "It appears they spent --" and this is in
4 relation to the KOA.

5 "It appears they spent 3.5 million for cash flows. I
6 can't see paying them anywhere near their original purchase
7 price in the current market conditions, then."

8 "Jeff, am I missing something here? This looks to me
9 like a business that is going to be in foreclosure soon."

10 That is in bold print. "If we got it in foreclosure, it
11 might make more sense."

12 "It seems SBMC has a first for 230,000. At that price,
13 it would be a wash, versus the Meyer property. 400,000
14 purchase, plus 2 million for the sites."

15 "Although, with Meyer, we do get to configure it
16 logically for our infrastructure, or all infrastructure is
17 new."

18 So it appears in this email Mr. Hart has made a decision
19 or has the thought that the KOA property is overpriced. Is
20 that correct?

21 A. That is his thought.

22 Q. Yes, that's correct?

23 A. Yes.

24 Q. And is that one of the main reasons why the KOA
25 property was not purchased or taken, because the price would
26 be too high?

27 A. I think they're -- again, going back to the
28 testimony that I've given, consistent with the growth of our

1 business, there are several factors with respect to the KOA
2 property that simply do not work, the barriers, the lack of
3 space, and the fact there are ingress and egress issues.

4 Additionally, we are not in the business of running a
5 campground. We don't have a campground, and our business is a
6 railroad. So this would be something completely out of the
7 box for us.

8 Q. So what you just described are the main factors
9 that went into the decision for the site?

10 A. The ingress, egress, natural barriers, and the
11 lack of space.

12 Q. So it didn't have to do with the economics?

13 A. Not from my standpoint.

14 Q. What about from Mendocino Railway's?

15 A. Not from Mendocino Railway's standpoint.

16 Q. So the resources that were spent in evaluating the
17 KOA property and it's financials effectively was a waste of
18 resources? Would that be a correct statement?

19 Because the financial issues were not even relevant. Is
20 that correct?

21 A. I would say that it was a waste of resources, yes.

22 Q. If you look at page 161, there is an email from
23 Mike Hart, dated July 20, 2020. Do you want to read that?

24 A. Okay.

25 Q. In that email, it appears that Mr. Hart went and
26 found a comparable property to the KOA property in Kentucky
27 which had 91 spaces, versus the KOA's 93 spaces.

28 And he did an analysis of the valuation for the property

1 in Kentucky. Is that correct?

2 A. Based on this email, that is correct.

3 Q. So he was actually looking at potential comparable
4 properties around the country similar to KOA at that time. Is
5 that correct?

6 A. Well, he may have been looking at what he
7 considered to be comparable properties, but I think anyone
8 will tell you that the real estate properties in California as
9 compared to the real estate properties in any other state are
10 night and day.

11 Q. At this time, he was looking for comparables for a
12 railroad yard. Is that right?

13 A. Based on the emails, that would be correct.

14 Q. If you go to the next page, page 160, there is an
15 email from yourself that looks like it is entitled, "To Mike."

16 And it states in the first paragraph, "I scheduled a
17 follow-up call with John this morning."

18 "He is no longer interested in selling this property. He
19 is intent on wanting to develop it and sell it off, getting
20 more money down the road."

21 Is that true?

22 A. What you just read is correct. That's what's on
23 the paper in front of me.

24 Q. And is that a common statement of John Meyer's on
25 or around July 21st?

26 A. That's consistent with what I remember our
27 conversation to be.

28 Q. And then below, it looks like in the third

1 paragraph, it said, "He said he just purchased a small parcel
2 next door. I think it is the parcel with the blue house that
3 is a modular home."

4 "Since he has done this, he'd like just about six acres,
5 leaving 14 acres for sale at 900,000. Otherwise, he wants
6 one-and-a-half million. And we take it all, and he walks
7 away."

8 Is that what Mr. Meyer told you?

9 A. I believe that that's what he told me. I would
10 have summarized it as a follow-up, so that seems consistent
11 with what he said.

12 Q. And so that was written on July 21st at 11:50 a.m.
13 And on July 21st, on the next page, page 159, at the bottom,
14 Mike Hart wrote an email on July 21st at 12:17 p.m., which is
15 27 minutes later.

16 It says, "ED works." ED refers to eminent domain?

17 A. I believe so.

18 Q. So as soon as Mr. Meyer said that he wasn't going
19 to sell at a price that you thought was reasonable, Mr. Hart
20 recommended eminent domain. Is that correct?

21 A. His comments were, "ED works."

22 Q. I'm sorry. Can you say that again?

23 A. His comment was, "ED works."

24 Q. That's eminent domain works?

25 A. Yes, sir.

26 Q. And that -- that, "ED works," comment was written
27 on July 21st. And the maps that we were discussing earlier,
28 those were in emails from July 19, 2020.

1 So the reference to eminent domain was made two days
2 after these maps were prepared. Is that correct?

3 A. Yes.

4 Q. And, then, if you look, there's an email written
5 seven minutes later from you at 12:24 p.m. that says, "Yes.
6 ED works, but we have yet to see it work."

7 Why did you say that?

8 A. Well, at the time, Mendocino Railway hadn't
9 engaged in an eminent domain matter.

10 Q. You hadn't filed any eminent domain matter at this
11 time?

12 A. I'm not certain of the date where we acquired a
13 piece of property via eminent domain action where a
14 stipulation was established as it relates to Alder Street in
15 Fort Bragg.

16 I don't recall that date offhand, so I don't know if it
17 was before or after.

18 Q. Mendocino Railway filed an eminent domain action
19 in Fort Bragg. Is that correct?

20 A. That is correct.

21 Q. And didn't it file two eminent domain actions?

22 A. Not counting Mr. Meyer's eminent domain action, it
23 did.

24 Q. And you don't know when those were filed?

25 A. The eminent domain action for Georgia Pacific was
26 filed in 2021. That I do know.

27 And I believe that the eminent domain action for Alder
28 Street was in 2021, but later in the year.

1 Q. So at that particular time, Mendocino Railway is
2 actively involved in eminent domain actions or analyses. Is
3 that correct?

4 A. Well, I don't think, "Yes. ED works, but we have
5 yet to see it work was on the 21st of July.

6 Q. Okay. So if you got to see it work -- you don't
7 know whether or not the other actions have been filed or
8 resolved before this or after it. Do you know?

9 A. The other actions are unresolved matters, and it
10 is before the state today.

11 Q. Okay. So if you look at the -- if you look at the
12 next page, page 158, on the bottom, there is an email from
13 Mike Hart, dated July 21, 2020, at 12:26. That's two minutes
14 after your email. And it states, "Yup. Test case."

15 Does -- does the Mendocino Railway consider this Meyer
16 litigation a test case?

17 A. Well, I think Mr. Hart -- what Mr. Hart is
18 referring to -- again, I can't speak for him.

19 But at this point in time, the Mendocino Railway had not
20 engaged in an action of eminent domain, so his response was
21 perhaps in response to my comment of our not seeing it work.

22 Q. Okay. So at that particular time is it a
23 potential that Mr. Hart saw this as a test case. Is that
24 correct?

25 A. That's a potential.

26 Q. Does Mendocino Railway consider this a test case
27 now?

28 A. I don't think Mendocino Railway considers this a

1 test case.

2 Q. Do you think it is appropriate to sue Mr. Meyer
3 and make him spend his hard-earned money on a test case for
4 eminent domain as far as it applies to Mendocino Railway?

5 A. As I just indicated, I don't think this is a test
6 case. So the intent at the present time isn't for Mr. Meyer
7 to spend his money for Mendocino Railway to have a test case.

8 Q. Is this the first eminent domain case that
9 Mendocino Railway has taken all the way to trial?

10 A. This is the first eminent domain case that
11 Mendocino Railway has taken all the way to trial. That is
12 correct.

13 Q. Okay. So this -- go to page 158. The email above
14 the one we just mentioned is an email dated July 21, 2020, at
15 12:41 from you, which is 15 minutes after the last email.

16 It says, "Possible. But that was Remco and Line. The
17 problem is it isn't an easy process. The work is insanely
18 intense. We could talk to Glenn Block about this one too."

19 What is the reference being made there to Remco and Line?

20 A. The Remco property that we had previously
21 identified prior to identifying the subject property.

22 Q. So why are you making a reference to Remco there?
23 Do you know?

24 A. Well, the work that we had done to start the
25 process, we had different counsel at the time.

26 And I had just met Mr. Block, or was introduced to
27 Mr. Block, so, as a result, it was an opportunity for us to
28 have that conversation with him.

1 Q. Okay. So were you -- was that in reference to the
2 fact that you were potentially thinking about doing an eminent
3 domain action for the Remco property?

4 A. Yes. And we covered that yesterday in my
5 testimony.

6 Q. Okay. And, then, the Line -- that's Line Redwood
7 -- is that correct? -- the reference to Line?

8 A. That is correct.

9 Q. And were you thinking about doing an eminent
10 domain case as it relates to the Redwood property?

11 A. For the expansion of the right-of-way in certain
12 areas. That is correct.

13 Q. So given the -- given the -- the fact that you're
14 potentially analyzing in this time frame eminent domain
15 actions involving the two in Fort Bragg, Mr. Meyer's property,
16 Remco, and Line, that's potentially five different parcels
17 that you were thinking about, or at least analyzing whether or
18 not you should proceed with eminent domain against. Is that
19 correct?

20 A. In this time period that is not correct. Remco
21 was a matter that we addressed I believe in 2015.

22 Q. Okay. So within approximately that five-year time
23 period you had analyzed from 2015. In that time frame, you
24 had analyzed taking up to five parcels through eminent domain.
25 Is that right?

26 A. Yes. We did have that analysis.

27 Q. So it appears that the eminent domain process is
28 seen as a process for -- is a business process -- is that

1 correct? -- for Mendocino Railway? That they use that process
2 to expand their business regularly?

3 A. I wouldn't say that they used that process
4 regularly when they acquired the assets of the then California
5 Railroad.

6 So in a 20-year period of time, to contemplate it for
7 five different opportunities is in an effort for Mendocino
8 Railway to grow its business.

9 The process of eminent domain for Mendocino Railway is
10 not inconsistent with the entities that use eminent domain as
11 a tool to grow their business to benefit the public in a
12 better way.

13 Q. Okay. So when you were -- would it be correct to
14 say that when you were doing this eminent domain analysis, you
15 were looking out for the public use? Is that right?

16 A. Again, yes. And as I have testified before, the
17 railroad was built to serve its counties 137 years ago.

18 My job and my goal from day one has been to make this
19 railroad a stronger railroad that can be utilized by the
20 community for another 137 years.

21 Q. Okay. And at this particular time of July 21,
22 2020, when the reference is, "We could talk to Glen Block
23 about this one too," at that particular time, would it be
24 correct to say that the Mendocino Railway had decided to no
25 longer pursue the KOA campground?

26 It had made its decision to pursue the Meyer property.
27 Is that right?

28 A. I don't want to commit to saying yes to that,

1 because there may be a subsequent email where the KOA item may
2 have been revisited.

3 But, you know, we were -- we were focused, or more
4 focused, I should say, and headed in a perhaps clearer
5 direction.

6 Q. Okay. And, then, if you look at the email above
7 that, on page 158 there is an email from Mike Hart from
8 July 21, 2020, at 12:46 p.m., just five minutes later than
9 this previous email.

10 It says, "First, we should decide if we want to proceed
11 on this site. Then we can decide how hard to push. Michael
12 G. Hart."

13 Is that a reference to the Meyer site, do you believe?

14 A. You know, I simply -- it appears to be, but I'm
15 not going to speculate yes or no.

16 Q. Okay. Do you know what he means when he says,
17 "Then we can decide how hard to push"?

18 A. I don't.

19 Q. All right. And then the next email above, from
20 12:49 on July 21, 2020, is from you.

21 And it states, "Agreed. We need the financial analysis
22 on the KOA to be completed first." Is that right?

23 A. Yes. That's what I -- yes. That's what the email
24 says.

25 Q. So at that particular time, the focus on the KOA
26 purchase was -- basically, the only thing left to do was to
27 analyze the financials. Is that right?

28 A. Based on this email, yes, it seems like that was

1 the last item to close the loop, if you will.

2 Q. It doesn't look like this -- at that particular
3 time you were analyzing whether or not to change the -- what's
4 the term we used for the map?

5 The map that was referenced, or the --

6 A. The illustration.

7 Q. The illustration?

8 A. The drawing.

9 Q. The drawing. Yeah.

10 A. I don't believe so.

11 Q. Conceptual drawing. Okay.

12 And if you go to the page 157, at the bottom there is an
13 email from July 21, 2020, at 1:06 p.m. from Mr. Hart, Mike
14 Hart.

15 And it says, "You need to be sure, as this is a huge
16 project." Do you know what he is referring to as a huge
17 project?

18 A. I don't.

19 Q. Okay. If you go to the email that starts on page
20 155, this is an email dated July 24, 2020, from Mike Hart.

21 A. Okay.

22 Q. Or, actually, down below, actually, I think is an
23 email. I went to the top. It should be an email below.

24 On the middle of page 155, it's an email from Jeff
25 Miller. And it said, "Sorry KOA took too long, but I wanted
26 some input from a colleague who has some experience in this
27 area."

28 "Below, and attached is a detailed financial model." And

1 then it goes through significant financial analysis -- is that
2 correct? -- this email?

3 A. Yes.

4 Q. And -- and it appears that the Mendocino Railway
5 is then waiting to make a decision about the KOA campground,
6 was waiting to analyze the financials.

7 And with this email and the documents that were attached,
8 which we don't have here, would that represent the financial
9 analysis that was done by Jeff Miller?

10 A. Yes.

11 Q. For the KOA? Is that right?

12 A. Yes.

13 Q. If you go to the page 156, there is -- at the top,
14 it says Analysis of Dates in bold.

15 And then if you go down to that section, at the second
16 bullet point from the bottom it says, "This property allows
17 you to use a portion of 1033 exchange, which allows us to keep
18 a large portion of the NOL for future use."

19 The reference to a 1033 exchange, that is an exchange of
20 property that occurs through a condemnation or eminent domain
21 action. Is that right?

22 A. That's correct.

23 Q. And what is an NOL?

24 A. Is it -- where do you see N OL? Oh, I'm sorry.
25 The second-to-the-last bullet point?

26 Q. Yeah.

27 A. I'm not familiar with that.

28 Q. Okay. So it's common for people to do a 1033

1 exchange when property is taken through eminent domain. Is
2 that right?

3 A. Yes. You have the ability to do a 1033.

4 Q. So when there was earlier discussion about
5 Mr. Meyer doing a 1033 exchange, I mean, that would be a
6 common practice, potentially?

7 A. Mr. Meyer's conversation with me was a 1031
8 exchange.

9 Q. Okay. If the you look at the bottom of page 156,
10 on the fourth bullet point up, it says, "Eli's view is that
11 COVID is and will drive more people to camping. RV sales are
12 way up, and it is a way to travel and social distance."

13 Was -- was that part of the analysis, financial analysis
14 that was made of the KOA campground?

15 A. It appears that when Mr. Miller reached out to a
16 friend of his who specialized in campground or resort-style
17 operations, that this was something that he gave him as
18 feedback.

19 It's also important to note that the entire time through
20 COVID, Mendocino Railway did not start a campground despite
21 their popularity.

22 Q. If you look above that, on that same paragraph
23 there above that there is -- there is one area that doesn't
24 have a bullet point, that says Eli's Comments and Business
25 Model. Do you see that?

26 A. How many bullet points up above?

27 Q. Well, it's -- there's a point where it doesn't
28 have a bullet point.

1 A. Oh, yes. Eli's comment. Yes. Thank you.

2 Q. And then if you go down through it to the third
3 bullet point, it talks about mobile home parks selling for cap
4 rates between 7 and 10 percent, and RV park cap rates of 6 to
5 11 percent.

6 So this analysis was focusing on the cap rates for this
7 type of park. Is that correct?

8 A. Well, this -- the KOA is not a mobile home park.
9 So I think that what Mr. Miller was doing was restating Eli's
10 comments to him.

11 Q. Okay. And it appears that this analysis that was
12 prepared for the KOA did not seem to factor in any type of
13 financial analysis that may result from the operation of
14 transloading or operation of freight. Is that correct?

15 A. That is correct.

16 Q. It also doesn't seem that the -- as part of this
17 analysis, the KOA was evaluated for the cost of installing a
18 wye, a pit, or a transloading facility is. That correct?

19 A. That is correct.

20 Q. I would like you to go to the next page, which is
21 page 176.

22 A. 176?

23 Q. Yeah. Do you see that? I believe it is the next
24 page. Or it's after 155. 176 is the next email.

25 A. Okay. Yes.

26 Q. This is an email dated August 19, 2020, from Mike
27 Hart to you. It states, "Robert, thank you for connecting me
28 with John Meyer, although, I have to say, I can't imagine how

1 you put up with the calls you've already had with him."

2 "Talking with him was like watching a ground squirrel on
3 crack dropped into a room of walnuts." Do you see that?

4 A. I do.

5 Q. Did Mr. Hart contact John Meyer?

6 A. He did.

7 Q. Do you recall what the conversation was?

8 A. They were having a conversation about the purchase
9 of his property.

10 Q. So as of August 19th, Mr. Hart had a conversation
11 with Mr. Meyer about the purchase?

12 A. On or about.

13 Q. Why did Mr. Hart state this about John Meyer? Do
14 you know?

15 A. I don't know.

16 Q. It doesn't seem like a very nice way to treat
17 somebody that you're trying to do a business deal with. Is
18 that right?

19 A. I would agree entirely. And, as I stated in my
20 deposition, it is certainly not the opinion of Mendocino
21 Railway or myself.

22 Q. Does Mendocino Railway have contempt for Mr. Meyer
23 in some fashion?

24 A. Contempt, as in anger?

25 Q. Yes?

26 A. No, sir.

27 Q. If you look at this email, at the bottom of the
28 second-to-last paragraph, there is a sentence that says, "He

1 did not like eminent domain once explained, and said he didn't
2 want to choose that one."

3 "In short, we should decide if we want to proceed, and
4 get an appraisal so we at least know what is fair. We should
5 then write up an offer, and see how he responds."

6 Do you see that?

7 A. I do.

8 Q. And do you know at that particular point, would it
9 be correct to say that the Mendocino Railway was actively
10 thinking about taking the eminent domain action against
11 Mr. Meyer to obtain his property? Is that correct?

12 A. Again, I think it was a consideration. And, you
13 know, Mr. Hart's suggestion of an appraisal to see what we
14 know was fair is an appropriate step.

15 Q. I have one more question, and then we can take a
16 break if you would like.

17 If you look at page 175, it's an email from Mike Hart to
18 you and to others, dated August 20, 2020.

19 It says, "Yeah. This guy was a bit on the fringe. We'll
20 request Glenn to get an appraisal." That's a reference to
21 Glenn Block?

22 A. Yes, sir.

23 Q. And that would be an appraisal, potentially, for
24 an eminent domain action. Is that right?

25 A. Potentially.

26 Q. Do you know what Mr. Hart was referring to when he
27 said that this guy was a bit on the fringe?

28 A. I don't.

1 Q. And I guess there's an email below that was from
2 you that I skipped from August 20th, at 8:39 a.m. It's from
3 you.

4 You said, "Now you see the wild goose chases you send me
5 on sometimes," with a happy face. What is that referring to?

6 A. Well, some of my conversations with Mr. Meyer were
7 very disjointed.

8 But I do take exception to the fact that he was
9 disrespected in the way that we just covered during the
10 testimony earlier. And, you know, it was a gentle nod to
11 Mr. Hart that, look, sometimes for as impatient as you can be,
12 you see what, you know -- see sometimes the conversations I
13 have to have.

14 And when you're impatient about how long it may take to
15 get back to you on something, sometimes these types of
16 conversations take a long time, and they take finesse.

17 Q. So on the next -- the next sentence in that email,
18 you said, "Ha, ha," on summing up John Meyer." What's that
19 referring to?

20 A. I think that it was, again, a nod to, you know,
21 what Mr. Hart had previously stated.

22 Q. So it seems like you and Hart are not showing much
23 respect for Mr. Meyer -- is that correct? -- in these emails?

24 A. I wouldn't say that. I think that is a complete
25 mischaracterization.

26 Q. The next email says, "I think an appraisal makes
27 sense. Should be pretty easy to do, given the property can be
28 seen from Highway 20." Do you see that?

1 A. I do.

2 Q. So it was your opinion at that time on August 20th
3 that Mr. Block should obtain an appraisal for eminent domain.
4 Is that correct?

5 A. I think what I said is that having an appraisal
6 makes sense, and that was the extent of what I said.

7 Q. Okay. So -- so you said that. But it looks like
8 in the next email, Mr. Hart referenced Glenn Block, right?

9 A. Yes.

10 Q. So Glenn Block probably wouldn't have been brought
11 into the conversation if you were just going to obtain an
12 appraisal; you could have done that yourselves.

13 It was referenced that Mr. Block should obtain an
14 appraisal, and that was specifically for eminent domain
15 purposes. Is that correct?

16 A. Well, again, it is something that we had
17 contemplated previously in previous emails. And if we were
18 going to go down this path, it seemed best to engage Mr. Block
19 earlier, rather than later.

20 Q. Okay. One more question.

21 It appears that Mr. Block was brought into the
22 conversation after the decision was made on what site was to
23 be obtained. Is that correct?

24 A. Well, in and around this time, we just reviewed an
25 email that talked about -- that was from Mr. Miller doing a
26 financial analysis.

27 It was the 19th of -- I'm sorry, no. It wasn't the 19th.
28 It was the 24th of July. So we had -- I'm sorry. Would you

1 restate your question, please, or repeat it?

2 Q. Yeah. You obtained the financials for the KOA,
3 right?

4 A. That's correct.

5 Q. After you obtained the financials for the KOA and
6 reviewed them, at that particular time, did the Mendocino
7 Railway determine that they did not want to pursue the KOA any
8 longer?

9 A. Yes.

10 Q. So after that was, the financials were obtained
11 and reviewed, then, at that particular time, the focus became
12 Mr. Meyer's property. Is that correct?

13 A. That's correct.

14 Q. And then Mr. Meyer told Mendocino Railway that he
15 didn't want to purchase or sell the property. And Mr. Mike
16 Hart spoke with him, and said he looked like a squirrel on
17 crack.

18 And at that particular time thereafter, the discussion
19 went to let's contact Mr. Block. Is that correct?

20 A. That's what the email thread represents, yes.

21 Q. So it appears that the Meyer property -- it was
22 decided that the Meyer property would be the property to be
23 pursued prior to bringing on Mr. Block. Is that correct?

24 A. I think that that is a fair analysis.

25 Q. Okay. All right. Thank you. Would you like to
26 take a break now?

27 THE COURT: Let's go ahead and recess for the
28 lunch break. Off the record.

(Recess)

1 THE COURT: Back on the record. Mr. Johnson?

2 CROSS-EXAMINATION (CONT.):

3 BY MR. JOHNSON:

4 Q. Yes. Thank you.

5 Mr. Pinoli, we were looking at Exhibit D, and the page we
6 were on was on page 175. If you could turn to that page?

7 A. Okay. I am there.

8 Q. Okay. If -- if you look at page 175, there is an
9 email. It's from Jeff Miller, dated August 20, 2020, at
10 11:03 a.m.

11 Can you take a look at that, please?

12 THE COURT: I'm sorry. Which number?

13 MR. JOHNSON: It's page 175.

14 THE COURT: Got it. Thank you.

15 BY MR. JOHNSON:

16 Q. You're welcome.

17 A. And, Mr. Johnson, that was the August 20th email
18 at 10:43.

19 Q. No. At 11:03.

20 A. Okay. Yes. Thank you. Yes.

21 Q. Have you read that?

22 A. Yes, sir.

23 Q. So in that first line, he states, "Wow, what a
24 discussion." Do you know what he is referring to? Is he
25 referring to the email discussion that was just had?

26 A. I believe so.

27 Q. And then the next sentence said, "I did speak with
28 Robert in more detail on the KOA, and he felt there would be

1 no way to split the property for a train depo and parking.

2 "The goal would be to separate the depo from the KOA so
3 we could later sell the KOA. Once maintained with the Skunk,
4 we could get the depo land for free; however, without the
5 ability to split the property, it would not be possible."

6 And my question to you is there is a reference to Robert.
7 Is that to you?

8 A. I believe so, yes. There is no other Robert.

9 Q. And -- and did you evaluate whether or not the KOA
10 property could be divided into two parcels, legal parcels?

11 A. I don't know if I evaluated it from the standpoint
12 if the KOA could be divided into two legal parcels.

13 It was more of was there a way to divide the property,
14 given the constraints that it had to serve the needs, based on
15 the discussion that was being had.

16 Q. Okay. So did you -- you analyzed it based on the
17 fact that -- the facts represented in this email that there
18 was a potential -- or you evaluated whether there was a
19 potential to obtain -- purchase the whole property and then
20 sell off the KOA and retain a certain portion of the property
21 for your depo. Is that right?

22 A. It was one of the considerations.

23 Q. And then if you look at the next paragraph, it
24 states, "I did see that one of comments of John Meyer was an
25 income stream."

26 "I am not sure if that was rambling or real, but it could
27 lower the price and pay him over some time for the remainder."

28 "Our 1033 exchange will be land plus our construction

1 costs and needs to be under the SNR entity."

2 The SNR entity is Sierra Norther Railroad?

3 A. Yes.

4 Q. And can you explain what that statement means, if
5 you know?

6 A. I'm not sure that I do know.

7 Q. Okay. And if you look at the -- if you look at
8 the email above, there is an email above dated August 20,
9 2020, at 11:12. And it's from Mike Hart.

10 It states, "Sounds like we need to get the appraisal and
11 just do a flat 1033 through SNR." Is that right?

12 A. That's what that email says.

13 Q. And so is that -- is that related to potentially
14 getting an appraisal to -- to complete an eminent domain
15 taking of Mr. Meyer's property?

16 A. Mr. Hart doesn't describe it beyond that one line
17 that you read, so it -- it's a bit hard to surmise.

18 Q. So you don't know what that means?

19 A. I don't, sir.

20 Q. If you look at the email up above -- it looks like
21 a portion of it was blocked out, but it's an email to Glenn
22 Block, and it appears to be from Mike Hart. Do you see that?

23 A. I do.

24 Q. All right. And is it your understanding that with
25 that email, Mr. Hart contacted Glenn Block to begin the
26 eminent domain process of taking -- of potentially taking
27 Mr. Meyer's property?

28 A. I'm unable to tell you what that email says,

1 because it is blacked out. I cannot read it.

2 Q. Do you know if Mr. Mike Hart contacted Glenn Block
3 to start the eminent domain process?

4 THE COURT: Counsel, I think that's kind of
5 getting into the attorney/client privilege, asking him for
6 things he might have to disclose.

7 BY MR. JOHNSON:

8 Q. That's fine. Mr. Pinoli, will you flip to Exhibit
9 E?

10 A. Okay.

11 Q. So are you familiar with this document?

12 A. Yes.

13 Q. This is a document that appears to be from Ward
14 Levy Appraisal Group, Inc., written from Ryan C. Ward to John
15 Meyer. Is that correct?

16 A. That is correct.

17 Q. And it's dated September 1st, 2020. Is that
18 correct?

19 A. It is.

20 Q. And if you look at the first paragraph, it states,
21 "The Mendocino Railway is considering the acquisition of your
22 property for its railroad operations."

23 "We have been hired by the California Eminent Domain Law
24 Group on behalf of the Mendocino Railway to appraise your
25 property at 1401 Highway 20 in Willits, California," and then
26 it has the assess or parcel number.

27 Is this the letter that was sent out on behalf of the
28 Mendocino Railway to John Meyer to effectively begin the

1 process of potentially taking his property through eminent
2 domain?

3 A. I believe there was an official letter that came
4 from Mendocino Railway on Mendocino Railway's letterhead, and
5 this would be -- would have been a supplement letter to this.

6 Q. So Mendocino Railway would have sent out a letter
7 to Mr. Meyer before this supplemental letter?

8 A. I believe so, but I would need to verify that.

9 Q. Okay. So this letter -- if we go back to Exhibit
10 D, the last email we were looking at was on page 175, and it
11 was dated August 20, 2020.

12 And so this letter from Ward Levy Appraisal Group,
13 Exhibit E, was sent out approximately 10 days after the last
14 email. Is that correct?

15 A. Yes.

16 Q. So it looks like after -- after this discussion
17 we've reviewed in the emails, Mendocino Railway took action
18 relatively quickly to start the eminent domain process. Is
19 that right?

20 A. That would be a correct timeline.

21 Q. Okay. So, now, we went through these emails that
22 were provided in your discovery responses during this case,
23 and throughout these email discussions and the evaluation of
24 the parcels that were being considered for your project, I did
25 not see any reference to a transload facility, did you?

26 Or do you recall seeing anything in these emails relating
27 to that?

28 A. In the emails we have reviewed? No. I don't

1 recall that.

2 Q. Do you recall seeing any references to freight in
3 any of these emails in Exhibit D that we have reviewed?

4 A. Well, I see reference to car storage, and that is
5 indicative of a freight operation.

6 Q. Okay. Besides that reference, do you recall
7 seeing any reference specifically to the word freight?

8 A. I don't believe so.

9 Q. In those emails that we have reviewed in Exhibit
10 D, did you see any reference made to a wye -- is it discourse?
11 What is it called?

12 A. A wye track?

13 Q. A wye track?

14 A. I don't believe so.

15 MR. JOHNSON: The -- I filed a supplemental
16 request for judicial notice. I'd like to get that, if
17 possible. Do you have a copy of that, Your Honor?

18 THE COURT: Do I?

19 MR. JOHNSON: I think I gave you one. It's just a
20 few of the statutes.

21 THE CLERK: It was filed on Tuesday.

22 THE COURT: Oh, right. I have that.

23 MR. JOHNSON: When we started the process.

24 THE CLERK: It's also scanned.

25 THE COURT: It's also scanned? What day did it
26 come in?

27 THE CLERK: Tuesday the 23rd.

28 THE WITNESS: Thank you.

1 THE COURT: Okay. There it is. Okay. Let me
2 pull it up.

3 MR. JOHNSON: At the same time, I -- just to make
4 it easier, we also have a request for judicial notice that I
5 filed on August 19th. And I'm going to provide that to the
6 witness as well of statutes and cases.

7 MR. BLOCK: It's not just statutes.

8 MR. JOHNSON: There's cases as well. Would you
9 like a copy?

10 THE COURT: Thank you.

11 MR. BLOCK: The supplemental was 124003012360, I
12 think.

13 Mr. Johnson, to clarify, the supplemental request for
14 judicial notice was Code of Civil Procedure 1250.360 and Code
15 of Civil Procedure 1250.370?

16 As to the statutes Your Honor, we have no objection. We
17 -- we also filed a request for judicial notice regarding a
18 variety of statutes.

19 The statutes that we presented all have the legislative
20 committee comment. That's the only reason we served the ones
21 that we served, so that additional information is there.

22 I can address the cases, if you would like.

23 MR. JOHNSON: Well, I'll address them. We can --
24 when I get there, we can do it.

25 MR. BLOCK: Fair enough.

26 THE COURT: I don't know that you folks need to
27 even --

28 MR. JOHNSON: I mean, a lot of this stuff was put

1 together for your purpose so that you don't need to go hunt
2 that.

3 THE COURT: Exactly. I don't think they need to
4 be addressed until closing arguments or briefs.

5 MR. BLOCK: The defendant's request for judicial
6 notice only had one of three PUC decisions, and things like
7 that.

8 THE COURT: When you do your closing briefs, you
9 can do all the law you want.

10 MR. JOHNSON: Thank you. Okay.

11 MR. BLOCK: Are you sure all we want? Really?

12 MR. JOHNSON: She's not going to read it, but you
13 can add it.

14 While we're here, I would move to have Exhibit D entered
15 into evidence, which is the emails we just discussed.

16 THE COURT: It may already be in evidence under
17 plaintiffs, but any objection to D?

18 MR. BLOCK: No objection, Your Honor.

19 THE COURT: Exhibit D will be received.

20 (Respondent's Exhibit D was admitted into evidence.)

21 MR. JOHNSON: I also move Exhibit E, which is the
22 letter from the appraiser.

23 MR. BLOCK: No objection, Your Honor.

24 THE COURT: Exhibit E will be received.

25 (Respondent's Exhibit E was admitted into evidence.)

26 MR. JOHNSON: I also move for the exhibits that we
27 discussed, which were the photographs. I believe they were M,
28 N, O --

1 MR. BLOCK: M and N weren't admitted yet.

2 THE COURT: And we have Q.

3 MR. BLOCK: O, P, Q were today. And I have no
4 objection to the photos, Your Honor.

5 THE COURT: All right. O, P and Q will be
6 received.

7 (Respondent's Exhibits O, P, and Q were admitted into
8 evidence.)

9 BY MR. JOHNSON:

10 Q. Thank you. And I think that's all the exhibits
11 now we've reviewed at least.

12 Mr. Pinoli, I'll refer you to the supplemental. It
13 states -- it's a document called Defendant, John Meyer's
14 Supplemental Request for Judicial Notice. Do you see that?

15 A. I do. Yes, sir.

16 Q. All right. And the first -- there's a statute.
17 The first statute is called California Code of Civil Procedure
18 section 1240.030, conditions precedent to exercise of power.

19 Do you see that?

20 A. I do.

21 Q. Are you familiar with this statute?

22 A. No, sir. I don't practice law, so I'm not.

23 Q. Okay. When you -- when you began the evaluation
24 of whether or not Mr. Meyer's property should be taken for
25 eminent domain purposes, did you -- and -- and that's
26 referenced in the emails that we've reviewed -- at that
27 particular time, did you review the law for eminent domain,
28 taking property through eminent domain?

1 A. Through discussions with our counsel.

2 Q. Okay. But at the time -- at the time that we were
3 discussing these emails, which was between January of 2020 and
4 August of 2020, did you have -- did you, yourself, review any
5 of the statutes such as this one that we just reviewed,
6 1240.030 conditions precedent to the exercise of power?

7 A. I did not.

8 Q. Do you know if Mr. Hart did?

9 A. I do not know.

10 Q. Okay. It was -- it's correct to say that you and
11 Mr. Hart were the ones that were responsible -- as far as
12 Mendocino Railway is concerned, you were the ones that were
13 responsible for evaluating the potential taking of the eminent
14 domain property from or taking the Meyer property through
15 eminent domain. Is that right?

16 A. That is correct.

17 Q. You did not think that it was necessary to review
18 the eminent domain laws at the time that you were making that
19 evaluation of what property to choose?

20 A. Again, through discussions with counsel that would
21 have happened later.

22 Q. Okay. So that happened after the decision was
23 made to take Mr. Meyer's property?

24 A. Well, there was no decision that was made, as
25 we've discussed, in any of the exhibits. There was discussion
26 surrounding it, but there was no -- there's nothing in the
27 affirmative that says this is what we are going to do.

28 Q. Okay. Well, wouldn't the September 1st letter at

1 least from the appraiser be an affirmative step to potentially
2 taking the property of Mr. Meyer through eminent domain?

3 A. That is correct.

4 Q. All right. So by September 1, 2020, a step had
5 been taken officially to potentially take Mr. Meyer's property
6 through eminent domain?

7 A. Sure.

8 Q. So have you reviewed these, or anyone in your
9 company reviewed these eminent domain requirements by
10 September 1, 2020?

11 A. Again, the conversations that would have taken
12 place would have been with our counsel, and we relied on
13 counsel to provide advice.

14 Q. Okay. And so you were -- would it be correct to
15 say that the Mendocino Railway was evaluating the requirements
16 for taking the property through eminent domain prior to
17 September 1, 2020?

18 A. I think that that is a fair assessment.

19 Q. Okay. Do you recall ever looking at the section
20 1240.030, Conditions Precedent to the Exercise of Power?

21 A. No. As I have previously stated, sir, I have not
22 -- I have not reviewed it.

23 Q. Okay. So would it be correct to say that in
24 making an analysis of what properties that you were interested
25 in taking through eminent domain, or, effectively, Mr. Meyer's
26 property through eminent domain, you would not have factored
27 in these factors, or -- excuse me.

28 You did not factor in 1240.030 into your analysis. Is

1 that right?

2 A. As I have previously mentioned, I have not read
3 1240.030. And so it would have been discussions with our
4 counsel, and we relied on our counsel to -- to simply take the
5 information that we were giving them, and for them to respond
6 to us based on our request.

7 Q. Okay. So -- so it would be correct, though, to
8 say -- I have no interest in understanding what your
9 discussion is with your counsel, but my question is Mendocino
10 Railway, as far as you know, did not factor in these
11 conditions that are referenced in 1240.030 during its
12 reference of whether or not it was going to take Mr. Meyer's
13 property?

14 MR. BLOCK: Objection. Is it the statute that
15 you're asking about, or the substance of the statute? Because
16 I think -- well, I won't say any more. But the question is
17 vague.

18 THE COURT: I'm going to sustain that. Will you
19 rephrase it?

20 BY MR. JOHNSON:

21 Q. Yes. Okay. Let me -- I'll just go through the
22 statute.

23 If you look at the statute 1240.030, it states that the
24 power of eminent domain may be exercised to acquire property
25 for a proposed project only if the following are established,
26 "A, the public interest and necessity require the project."

27 So I'd like to stop there. When you were making the
28 analysis prior to September 1, 2020, of whether or not to take

1 or potentially take Mr. Meyer's property through eminent
2 domain, did Mendocino Railway evaluate whether the public
3 interest and necessity required the project?

4 A. Yes.

5 Q. It did? And how did it do that?

6 A. Through discussions with counsel.

7 Q. Did you have any discussions outside of the
8 discussions you had with counsel regarding whether or not the
9 taking was in the public interest and necessity required the
10 project?

11 MR. BLOCK: Objection. Calls for a legal
12 interpretation, or a legal analysis. Objection to the extent
13 the question calls for a legal analysis or a legal conclusion.

14 THE COURT: And I agree.

15 Mr. Johnson, you're asking him to give an opinion here as
16 to whether or not they complied with A, B, and C, and I think
17 that's inappropriate.

18 He spent the last two days testifying as to all of the
19 things that were done to, you know, end up where they are
20 today to file the lawsuit.

21 So I think you need to rephrase so that he's not offering
22 any kind of legal opinion here. He's not been retained as an
23 expert to do that.

24 BY MR. JOHNSON:

25 Q. No. I understand, and my goal here is not to --
26 to make or ask Mr. Pinoli to make a legal opinion.

27 My goal here and my question is focused on was there a
28 discussion that was had outside of your counsel's presence

1 that related to public interest and necessity requiring a
2 project prior to September 1st? That's my question.

3 THE COURT: A discussion with whom? Anyone?

4 MR. JOHNSON: Anyone at the Mendocino Railway.

5 THE COURT: Okay. Do you understand the question?

6 THE WITNESS: I do.

7 THE COURT: Okay.

8 THE WITNESS: I do think that there were some
9 internal discussions, again, as we moved forward -- as
10 Mendocino Railway moved forward.

11 And through our discussions with counsel in order to
12 retain Mr. Levy to do the appraisal, there had been
13 discussions to determine if the use of the property, the
14 subject property was going to comply with the requirements.

15 BY MR. JOHNSON:

16 Q. Okay. But did you see any of those discussions in
17 the exhibits in Exhibit D, the emails that we reviewed that
18 related to the public interest and necessity requiring the
19 project?

20 A. I think Exhibit D ended around the 20th of August,
21 and I don't recall having reviewed any of those.

22 Q. Okay. And if you look at subsection B of section
23 -- of statute 1240.030, it states the project is planned or
24 located in the manner that will be most compatible with the
25 greatest public good and the least private injury. Do you see
26 that?

27 A. I do.

28 Q. And I don't want to know anything about

1 discussions that you had with your counsel, but were there
2 discussions that were had with the Mendocino Railway officer
3 -- officers, for example, Mr. Hart, yourself, Chris Hart, Jeff
4 Miller?

5 Did you analyze whether or not the project was planned or
6 located in the manner that would be most compatible with the
7 greatest public good and the least private injury?

8 MR. BLOCK: Objection. My concern is that
9 Mr. Pinoli has testified several times now that he has not
10 read 1240.030. And so the question as framed in the language
11 of 1240.030 is vague and uncertain.

12 THE COURT: Do you understand the question?

13 THE WITNESS: I understand. I think what
14 Mr. Johnson is getting at, Your Honor --

15 THE COURT: Okay. Then, I'm going to allow him to
16 answer if you understand the question.

17 THE WITNESS: Thank you. I would say that the
18 discussions that we had with the Mendocino Railway at that
19 point in time at the 1st of September when the letter was sent
20 out were discussions that we also had with our counsel.

21 So any discussions with respect to the taking of the
22 subject property were done with counsel, and, as a result of
23 that, our counsel advised us what the criteria were in order
24 to -- or that needed to be considered in moving forward.

25 And we needed to make sure that our project was
26 consistent, that it was in the public interest, that there was
27 a necessity required, and that it was located in a manner that
28 would be most compatible with the greatest public good and

1 least private injury.

2 BY MR. JOHNSON:

3 Q. Okay. Thank you.

4 I would like to refer you to Exhibit F. And this
5 document is the complaint and eminent domain that was filed by
6 the Mendocino Railway on December 22, 2020.

7 A. I am at that document.

8 Q. Okay. And if you -- are you familiar with this
9 document?

10 A. I am.

11 Q. Okay. Did you review this document prior to it
12 being filed?

13 A. I did.

14 Q. All right. If you look at the second paragraph on
15 page 2 of this document, it states, 2, the project. And then
16 it has in parentheses, "(The project for which plaintiff seeks
17 to describe the below-described project related to plaintiff's
18 ongoing and future freight and passenger rail operations, and
19 all uses necessary and convenient thereto.)"

20 Is it your understanding that as far as the complaint is
21 concerned, that that is the definition of the project that you
22 were going to construct on or wished to construct on
23 Mr. Meyer's property?

24 A. A maintenance facility and a freight-based
25 facility, yes. That is -- that is what we said in our
26 complaint.

27 Q. All right. Now I'm looking at the complaint.

28 Is there a reason why you weren't more specific in the

1 complaint?

2 A. I'm not certain that the complaint needed us to
3 contemplate all of the necessary uses.

4 Q. Okay. So you're -- you're -- as far as you know,
5 there was no reason why it wasn't more specific -- is that
6 correct? -- about what you were going to build?

7 A. I don't believe so.

8 Q. All right. So the project description in the
9 complaint does not specify the specific improvements to be
10 constricted on the Meyer property. Is that correct?

11 A. It does not specify the specific improvements as
12 where he reviewed yesterday in the sight map.

13 Q. Okay. That was the map that was created in June
14 of 2022? That map?

15 A. That is correct.

16 Q. All right. So the -- the project description in
17 the complaint does not make any reference to the campground
18 that was to be constructed on the Meyer property. Is that
19 correct?

20 MR. BLOCK: Objection; misstates the facts, or
21 assumes facts not in evidence.

22 THE COURT: Would you repeat that question?

23 (The record was read.)

24 THE COURT: Does it say anything about a
25 campground in the complaint?

26 THE WITNESS: No, Your Honor.

27 THE COURT: All right.

28 BY MR. JOHNSON:

1 Q. Is it -- is it your position that between the --
2 the -- the email on July 19th that we reviewed that had the
3 map that showed the KOA campground and the RV park on the
4 Meyer property, the -- what did we call it? I keep
5 forgetting. Are you familiar with what document I'm talking
6 about?

7 A. If you point me to it. Is there a railroad
8 reference that you are looking for?

9 Q. Yeah. Let me find it for you. Okay. It's on
10 Exhibit D, and it is page 171.

11 A. Okay. The map that's -- not the map, but the
12 image, if you will, that's at the top.

13 Q. Yes. Do you recall discussing that?

14 A. I previously testified that it was a part of an
15 email, and it was part of our email discussion.

16 Q. Okay. So -- so my question is this email and this
17 map were sent out to -- to you by Mike Hart on July 19, 2020,
18 correct?

19 A. Yes, sir.

20 Q. All right. And the letter that we discussed that
21 Mr. Levy sent out was sent out on September 1, 2020. Is that
22 correct?

23 A. Yes. That is correct.

24 Q. Okay. And so my question to you is is it -- is it
25 your understanding that the project, or the project when you
26 began the eminent domain process was not the project that is
27 represented in this email on -- or in this aerial photograph
28 with the overlay on July 19, 2020?

1 A. As I -- as I previously said, this email was a
2 part of a very lengthy conversation that Mike Hart was having
3 amongst his colleagues and his staff.

4 And, no, this map or this image was not a part of the
5 instructions or the plan that was provided to Mr. Levy.

6 Q. Okay. So what -- what was your understanding of
7 the plan as of September 1, 2020, when Mr. Levy sent out his
8 letter?

9 A. It is -- it is consistent with the plan that is
10 before the Court today, and that is the plan that we had
11 solidified by our outside architect, Hornberger and Worstell,
12 that includes rail, transload facilities, maintenance
13 facilities, parking, offices, and a depo area.

14 Q. Okay. If you look at the big binder, you can look
15 at Exhibit 4.

16 A. Yes, sir.

17 Q. Is that the plan that you were just referring to?

18 A. Yes.

19 Q. Okay. So it's your understanding that the plan
20 that was in place at least discussion wise was in place as of
21 September 1, 2020, was effectively this plan in Exhibit 4. Is
22 that correct?

23 A. The elements of that plan.

24 Q. Okay. So it's your understanding, or your
25 testimony that between the time frame of July 19th and
26 September 1st, the -- the plan for what was to occur and the
27 improvements to be made on Mr. Meyer's property completely
28 changed from a campground and RV park into the plan that is in

1 Exhibit 4. Is that correct?

2 A. Yes. And, as I previously testified, the notion
3 of a campground and an RV park is something we are not in the
4 business of doing.

5 It is something that came recommended to Jeff Miller via
6 Eli as being potentially quite lucrative during the COVID
7 time. We're not in the business of running campgrounds or
8 owning campgrounds.

9 And, again, through my discussions with Mr. Hart, it was
10 in order to grow this business, and to grow this railroad, and
11 to continue to serve our community in the way the railroad was
12 founded, this is what we need to get on with doing.

13 Q. Okay. Now, we reviewed all the emails in Exhibit
14 D, and there did not seem to be any discussion regarding the
15 movements that are in Exhibit 4.

16 So is it your understanding that all these discussions
17 were had internally, and nothing was done -- as far as the
18 type of plan that is referenced in Exhibit 4, nothing was
19 referenced in an email. Is that correct?

20 A. That is correct.

21 And as I stated before, I think it was in response to
22 your question of is it a waste of resources to pursue
23 discussions about options that didn't benefit the railroad,
24 suffice to say that we spent several months and a waste of
25 Mendocino Railway's resources having these discussions about
26 the campground and such. And I would agree with that again.

27 Q. Before this litigation was filed, Mendocino
28 Railway never provided Mr. Meyer with a specific description

1 of the use that it intended to make of his parcel, correct?

2 A. I believe in our letter to Mr. Meyer, a notice of
3 intent to appraise that should have been included, or it was
4 included in there.

5 Q. So -- so the letter you're referring to would be
6 the letter that Mr. Levy sent out? The September 1st letter?
7 Is that correct?

8 A. It's -- it strikes me as that there should have
9 been, or there was another letter that came from Mendocino
10 Railway on or about that time that would have included that.

11 Q. Included what?

12 A. But I -- I can't speak to -- I can't speak with
13 absolute certainty that that's the case.

14 Q. Okay. So I'm just trying to clarify here. You
15 said it would have included that. What, specifically, are you
16 referring to? It would have included a description of the
17 project?

18 A. It would have included a -- a reason for the
19 taking.

20 Q. Okay. Would it have included a description of
21 what the projects were going to be? Specifically, the
22 improvements that were going to be made to Mr. Meyer's
23 property?

24 A. Again, we talked about the elements of the
25 project, but that hadn't been solidified in an illustrated
26 form.

27 Q. So are you aware of this letter that you're
28 referring to? Have you seen it during this trial?

1 A. The Levy letter?

2 Q. No. The letter that you claim was sent out to
3 Mr. Meyer?

4 A. It's something that I'll have to review to see if
5 it exists.

6 MR. JOHNSON: Okay. I would like to refer the
7 Court to page 40 of Mr. Pinoli's deposition.

8 THE COURT: Hold on. Let me get it. Okay. Line?

9 BY MR. JOHNSON:

10 Q. Line 1:

11 "QUESTION: Okay. So in paragraph 2 of Exhibit 15
12 in the complaint, it says in quotes, 'The project for which
13 plaintiff seeks to acquire the below-described property
14 consists of future freight and passenger rail operations and
15 all uses necessary and convenient thereto,' end of quote."

16 "Would it be correct to say that Mr. Meyer was never
17 provided with any type of specificity beyond what is
18 referenced in paragraph two with regards to what the project
19 is going to consist of on his property?"

20 "ANSWER: There may have been the initial letter
21 which was sent out to him which would start the eminent domain
22 process, the motion of intent to appraisal, followed up by the
23 letter -- the letter of just compensation may have described
24 it. But without it in front of me, I don't want to
25 speculate."

26 The letter -- my question to you, Mr. Pinoli, is that
27 letter that is referenced here, the letter of -- that you
28 refer to as the letter of just compensation, would that --

1 would that be referring to the letter that's in Exhibit E?

2 A. Again, I'd have to review the exhibit binder that
3 Mr. Block put together and see if there wasn't an additional
4 letter in there.

5 Q. Okay. So would it be correct to say you don't
6 know?

7 A. That would be fine. It would be consistent with
8 what my deposition said.

9 Q. Okay. Under eminent domain law, a general
10 statement of public use for which the property is to be taken
11 is required by the Code of Civil Procedure section
12 1250.310(d)(1). Is that correct? Do you know?

13 MR. BLOCK: That's not one of the statutes in your
14 supplemental request for judicial notice, is it?

15 BY MR. JOHNSON:

16 Q. Do you know if that's the case?

17 THE COURT: Are you asking him to review the
18 statute?

19 MR. JOHNSON: No. I'll rephrase the question.

20 BY MR. JOHNSON:

21 Q. Do you have an understanding of whether or not
22 eminent domain law requires a general statement of public use
23 for which the property is to be taken?

24 A. Again, these are conversations we would have had
25 with our counsel, who is an expert in the process of eminent
26 domain. So I feel as if you are asking me to determine if the
27 legal -- the legalness of a statute.

28 Q. And so the answer is that you're not familiar with

1 that requirement? I'm asking if you're familiar with that
2 requirement or not?

3 A. I am familiar with the requirements of, you know,
4 that the property has to have a stated benefit for, you know,
5 public interest, and that necessity is required -- that it's
6 sought to be acquired because it is necessary for the project,
7 and that it's, you know, it's compatible with the greatest
8 public good and the least private injury.

9 Q. Okay. Are you familiar with the eminent domain
10 requirement that requires that the project be necessary?

11 A. Yes.

12 Q. And why is this project necessary? Do you know?

13 A. The -- I've stated in my testimony over the last
14 couple of days that in order for the railroad to continue to
15 grow and to meet the demands and the requests that we are
16 getting from outside businesses -- this isn't the railroad
17 soliciting business; this is other businesses coming to the
18 railroad -- that there is a request for this type of service.

19 And in order to facilitate this type of service and bring
20 cohesiveness to the railroad's operations that presently are
21 disjointed on the eastern side of our line, that this property
22 is necessary.

23 BY MR. JOHNSON:

24 Q. Okay. Your Honor, I'd like to refer you to page
25 41, line 15.

26 "QUESTION: Is this -- is this project necessary?"

27 "ANSWER: Yes."

28 "QUESTION: Why is this project necessary?"

1 "ANSWER: Well, it's necessary because in order
2 for the railroad to continue to grow and expand, we need the
3 appropriate facilities to do just that."

4 "QUESTION: Any other reason why it's necessary?"

5 "ANSWER: No."

6 Mr. Pinoli, in your opinion and in Mendocino Railway's
7 opinion is the project plan located in a manner that will be
8 most compatible for the greatest public good?

9 A. Yes, sir I believe it is.

10 Q. And why do you say that?

11 A. Well, for the reasons that I have described over
12 the last couple of days, and that is that it has its proximity
13 to the state -- to State Route 20, it's proximity to the rail
14 corridor, and giving other businesses the opportunity to work
15 with the railroad in order to get their goods and services to
16 them in a manner which advances those businesses, and,
17 overall, advances the economic impact they have within our
18 community.

19 Q. Okay. Is there any other reason why this project
20 is located in a manner that will be most compatible with the
21 greatest public good and the least private injury?

22 A. Well, in determining -- in our process to
23 determine and sort of vet the other properties, there were a
24 variety of factors that we looked at, size, what was on those
25 properties, constraints, natural -- what I would consider are
26 natural constraints or barriers, and the fact that this
27 property is bare land.

28 There is no house, so there is no displacement of

1 residents. There is no infrastructure to this property.

2 It is bare land adjacent to the rail quarter. It is
3 adjacent to the highway. It is sandwiched between the two.

4 It is out of town, so there is not congestion and it
5 really allows for the proper flow that is required in that
6 type of facility to accommodate fleet services and
7 transloading services.

8 Q. Okay. Thank you. Are you done?

9 A. Yes, sir.

10 MR. JOHNSON: I'd like to refer the Court to page
11 42. Yes. Line 13.

12 "QUESTION: Is there any other reason why this
13 project is located in a manner that will be most compatible
14 with the greatest public good and the least private injury?"

15 Well, I'd better go back to above that, Your Honor,
16 because I asked any other reason. So this would be line 4,
17 page 42.

18 "QUESTION: In your opinion -- in Mendocino
19 Railway's opinion and your opinion, is the project located in
20 a manner that would be most compatible for the greatest public
21 good?"

22 "ANSWER: Yes."

23 "QUESTION: Why do you say that?"

24 "ANSWER: Well, it's proximity to the highway and
25 railroad's corridor. It is sandwiched between the two."

26 "QUESTION: Is there any other reason why this
27 project is located in a manner that would be most compatible
28 with the greatest public good and the least private injury?"

1 "MR. BLOCK: Objection, vague. Calls for a legal
2 conclusion. Is the question the greatest public good and
3 least private injury, or something else?"

4 "BY MR. JOHNSON: QUESTION: The question is the
5 question that I asked. Would you like the question repeated?"

6 "ANSWER: Would you please repeat the question?"

7 "(The record was read.)"

8 "THE WITNESS: Given the number of trains that we
9 operate, minimizing the number of grade crossing times that
10 occur during the day present when we depart the Willits depo
11 or anywhere in the Willits yard -- there are a number of grade
12 crossings that we go through, so each time you go through a
13 grade crossing, trains never swerve."

14 "Each time you go through a grade crossing, you know,
15 there is the risk of a car running through gates and the car
16 being struck."

17 "By this being located -- our facilities moving to the
18 Meyer property, we eliminate that. So there is huge public
19 benefit, a huge public safety benefit."

20 "It also takes the moving or transloading of goods and
21 services out of the central part of downtown Willits, if you
22 will, as it is moved out more into the country."

23 "As far as the second part of your question, which was
24 the injury, this has the effect on one property owner, not
25 multiple property owners, who would be compensated fairly for
26 it."

27 THE COURT: So, Mr. Johnson, that's all of the
28 things he's testified to in the last couple of days, so I

1 don't know that you're really impeaching him here. I'm not
2 sure why you're reading these sections --

3 MR. JOHNSON: Okay.

4 THE COURT: -- of the deposition.

5 MR. JOHNSON: I wanted to clarify, because what
6 he's testified to, Your Honor, is well in excess of what he
7 said in these two paragraphs.

8 So I was just making a distinction between the amount of
9 testimony we've heard on all these other issues versus what
10 was said at his deposition, but I'll move on.

11 THE COURT: Okay.

12 BY MR. JOHNSON:

13 Q. Mr. Pinoli, will you look at Exhibit 4? This is
14 the map that sites the preliminary site plan.

15 A. I have the map here.

16 Q. Okay. So this was the preliminary site plan, and
17 I received it on June 24, 2020. And you testified that it was
18 prepared sometime in June 2020. Is that correct?

19 A. Yes.

20 Q. All right. Now, if you look at the site plan, on
21 the right of the plan, there is a -- I guess it would be a
22 reference to a natural habitat preserve. Do you see that?

23 A. I do.

24 Q. And does that -- that generally looks like it's
25 pointing to a creek and some trees. Is that right?

26 A. Yes.

27 Q. And I believe you testified yesterday that that --
28 that natural habitat would block or prevent you -- prevent the

1 railroad from using that portion of the site. Is that
2 correct?

3 A. I believe I even went a step further, in saying
4 that we had no intention of knocking down trees or disrupting
5 the stream bed so that that area was precluded, if you will,
6 from our developing it.

7 Q. Okay. Is there a reason why the railroad needs to
8 take that portion of the property?

9 A. Well, it's my understanding that if we're taking a
10 piece of property via eminent domain, that we can't leave the
11 person who currently owns the property, Mr. Meyer, with
12 something that is disjointed, meaning something that is
13 disconnected.

14 It doesn't abutt his other two parcels that he owns. He
15 has no way to access the parcels that he owns, which I believe
16 yesterday they were 40 and 41 -- if my memory serves me
17 correctly -- to the west, and he would be landlocked. There
18 is no ingress or egress.

19 Q. Okay. Well, my question to you would be wouldn't
20 it be possible to allow Mr. Meyer to retain a portion of this
21 natural habitat area and allow him to access it off of
22 Highway 20?

23 A. Given what is going on with the property
24 currently, I can't imagine what Mr. Meyer would be doing with
25 it. It's not suitable for development. It's not suitable for
26 stacking dirt.

27 Q. It may be suitable for a house, don't you think?

28 A. I don't believe so.

1 Q. And why do you say that?

2 A. I don't believe that the setback requirements are
3 consistent.

4 Q. Okay. Do you know for sure?

5 A. I said I don't believe. I don't know for sure.

6 Q. And when you're talking about setback
7 requirements, you're talking about setback requirements from
8 what? Highway 20?

9 A. Setback requirements from the creek and the trees.

10 Q. Okay. And if the setback requirements could be
11 met, do you think it's possible that, you know, Mr. Meyer may
12 have an interest in retaining that portion of the property if
13 you're not going to use it?

14 A. I don't believe Mr. Meyer has an interest in
15 retaining that portion of the property.

16 Q. Why do you say that?

17 A. In my conversations with Mr. Meyer leading up to
18 our filing the eminent domain matter, that was not something
19 that we discussed.

20 Q. And since you didn't discuss it, you don't believe
21 he wants to retain it. Is that right?

22 A. Yes. We didn't discuss it.

23 Q. And based on your statements, you're never going
24 to use this portion of the property. Is that right?

25 A. There's nothing that would preclude us from
26 parking vehicles over here, or what have you. When I say
27 "over here", I mean towards the trees.

28 It's just that it's not something that would be developed

1 from a standpoint of knocking down trees, or trying to reroute
2 an active waterway.

3 Q. Okay. All right. Thank you. And if you'll look
4 on the left portion of the map here where it says, Maintenance
5 Repair Facilities, and Yard Maintenance of Way, and
6 Maintenance of Equipment? Do you see that?

7 A. I do. Yes, sir.

8 Q. All right. That would be where you would work on
9 the -- the equipment for your operation. Is that correct?

10 A. That's correct.

11 Q. I would guess that that could be loud sometimes.
12 Is that correct?

13 A. It could be.

14 Q. And right next to -- right behind that maintenance
15 facility are two houses. Is that right?

16 A. There are.

17 Q. One of those houses Mr. Meyer owns. Is that
18 correct?

19 A. Yes.

20 Q. When you -- when this plan was put together a
21 couple of months ago, or this -- this map was put together a
22 couple of months ago, was it -- did you take into
23 consideration the impact that using a maintenance facility
24 right next to two houses would have on the neighbors?

25 A. The facility is an indoor facility, so it is
26 completely enclosed. The work that would be done on the rail
27 cars would not be done on the exterior, but, rather, on the
28 interior.

1 The purpose of putting a pit and the overhead cranes in a
2 building are to keep those pieces of equipment or tools out of
3 the weather, and so, as a result of that, equipment repairs
4 would be inside the building.

5 I can't imagine that the repair work that we would be
6 doing to be any noisier than the highway traffic that is
7 adjacent to those houses.

8 Q. You would be driving trains in and out of that,
9 wouldn't you?

10 A. Well, you would -- from -- from a railroading
11 standpoint, you would be idling equipment in and out of there.

12 This -- this -- it would -- this would be notch one, or
13 gear one, if you will, from railroading terms. So it would be
14 minimal power used.

15 Q. It's pretty loud, though. A train is loud, is it
16 not?

17 A. Trains are. Particularly, the four new
18 low-emission locomotives that we have slated to come, with one
19 of the three engines operating, they are the equivalent of a
20 modern diesel truck engine.

21 Q. Okay. So is it your testimony then that having a
22 maintenance facility and the trains going back and forth
23 behind Mr. Meyer's house would have no real impact on him?

24 A. I don't believe that they would.

25 Q. And was that -- was that issue evaluated when you
26 came up with this plan?

27 A. Absolutely. When we came up with this plan, it
28 was designed in a way that could accommodate all of the

1 necessary items that are needed for this facility.

2 Q. Okay. I mean, it looks like it would be possible
3 to have put the maintenance facility somewhere farther away
4 from the houses. Is that possible for this plan?

5 A. That's something that I would have to review and
6 -- and speak to our engineers about.

7 Q. Okay. Do you believe that Mendocino Railway has
8 the right to take private property as a record, and turn it
9 into a campground and an RV park?

10 A. No. I don't believe that we have the right to
11 take property and convert it -- via eminent domain, and
12 convert it into a campground or RV park.

13 Q. Do you believe that the operation of a campground
14 and RV park is consistent with the operation of a railroad?

15 A. I do not believe it is.

16 Q. Do you believe that Mendocino Railway has the
17 right to take a piece of property and use it however it wants
18 to?

19 A. No. I think Mendocino Railway, or any other
20 railway for that matter, has the right to take a piece of
21 property and use it consistent with the plan that they have
22 set forth.

23 Q. Are you familiar with the term "railroad
24 corporation"?

25 A. I'm familiar with the -- the suggestion of
26 railroad corporation.

27 Q. Can you explain what you mean by "suggestion"?

28 A. Well, a corporation -- a business that is a

1 railroad that is incorporated would be a railroad corporation.

2 Q. Okay. And I'd like to refer you to these
3 documents -- they are called Request for Judicial Notice --
4 that I've provided to you.

5 A. Is that the large stapled packet?

6 Q. Yes.

7 A. Okay.

8 Q. If you'll look at Exhibit D of this request for
9 judicial notice?

10 A. Sorry. Was that Exhibit D?

11 Q. D, as in dog. It's a -- it's a statute. It's
12 called California Public Utilities Code, Section 230. And it
13 defines railroad corporation.

14 Do you recall ever reviewing this statute?

15 A. Yes.

16 Q. And when do you recall reviewing it for the first
17 time?

18 A. Oh, I know that we reviewed it most -- well, I
19 believe in our deposition.

20 Q. Okay. Does -- does the Mendocino Railway believe
21 that it is a railroad corporation?

22 A. Yes. Without question.

23 Q. Okay. And does the Mendocino Railway claim to be
24 a common carrier?

25 A. Yes. Without question.

26 Q. And you're familiar with the term "common
27 carrier", and what it means?

28 A. I am familiar with the term common carrier.

1 Q. And are you familiar with the definition of common
2 carrier, which is -- and the request for judicial notice? It
3 is Exhibit A.

4 A. A, as in apple, sir?

5 Q. Yes.

6 A. Yes.

7 Q. Okay. And when you refer to a common carrier, do
8 you know if you're referring to what is defined in Exhibit A,
9 or do you have some other definition?

10 A. No. The definition here adequately states what
11 Mendocino Railway's operation, California Western Railroad,
12 does.

13 Q. Okay. Does Mendocino Railway also consider itself
14 a public utility?

15 A. Yes.

16 Q. Yes, it does? Okay.

17 And if you look at Exhibit B of the request for judicial
18 notice, there is a statute. The statute is California Public
19 Utility's code, section 216 and it defines public utility.

20 When you say that you are a public utility, do you
21 believe that you are a public utility based on this California
22 statute, or is it some other reason that you think you are a
23 public utility?

24 Or if you don't know, you can say you don't know.

25 A. Well, it says in the opening line, there, that
26 public utility includes every common carrier, and we,
27 California Railway Western Railroad, is, in fact, a common
28 carrier.

1 Q. Okay. And why do you say that you're a common
2 carrier?

3 A. Because we are a railroad that has a corporation
4 in the state of California. We are recognized by the Surface
5 Transportation Board as a Class 3 common carrier.

6 Q. Okay. If you -- if you look at Exhibit C, that's
7 the California Public Utilities Code, section 229, and it
8 appears to define the term "railroad"?

9 A. Yes.

10 Q. When you say that your Mendocino Railways is a
11 railroad, is it your understanding that you are a railroad as
12 defined by this statute 229?

13 A. Yes.

14 Q. And how do you have an understanding -- you,
15 personally, have an understanding that the Mendocino Railway
16 is a railroad?

17 A. Well, I mean, we are a railroad.

18 And as it's defined right here, we do provide special
19 service, and we do have all of the supporting structures that
20 it further defines, tracks, bridges, tresses, right-of-way
21 tunnels, stations depots, yards, grounds, structures,
22 equipment, and all other real estate, pictures, personal
23 property, and every kind used in connection there within.

24 All of those items that I just listed off are all of the
25 items that make up the California Western Railroad track,
26 which is one of Mendocino's operations.

27 Q. Okay. And if you look at the -- the end of this
28 statute, it goes on. And this is the third line from about

1 the middle of the third line on the definition of railroad.

2 It says, "...and all other real estates, pictures, and
3 personal property of every kind used in connection with,
4 owned, controlled, operated, or managed for public use in the
5 transportation of person or property." Do you see that?

6 A. I sure do.

7 Q. So is it your understanding that the Mendocino
8 Railroad transports persons or property?

9 A. Absolutely.

10 Q. And it's your understanding that the
11 transportation of persons or property is -- is a function of
12 -- of the Mendocino Railway. Is that correct?

13 A. That is correct.

14 Q. And how -- how do you make that determination?

15 A. Because what the railroad is doing today is no
16 different than what the railroad has been doing for its
17 137 years of existence.

18 Q. Okay. So what you're doing today is the same
19 thing that it's been doing in the past. Is that right?

20 A. That is correct.

21 Q. So it would be the same that was being done in
22 1998, for example. Is that correct?

23 A. 1967, 1956, 1925, and so on.

24 Q. 2004?

25 A. 2004.

26 Q. Thank you. I would -- I'd like to refer you to
27 Exhibit J in the request for judicial notice.

28 This is a California Public Utilities Commission decision

1 dated January 21, 1998. The reference number is 1998 Cal. PUC
2 Lexis 189.

3 And it's titled, "In the matter of the application,
4 California Western Railroad, Inc., for authority to modify
5 scheduled commuter passenger service and seek relief from
6 regulated excursions, passenger scheduling and fares."

7 Do you see that?

8 A. Yes, sir.

9 Q. Do you recall ever reviewing this decision?

10 A. Yes.

11 Q. When do you recall first reviewing this decision?

12 A. I was a part of the process in 1998.

13 Q. Okay. And so -- so you were a part of the actual
14 process that -- or PUC process, or evaluation for this
15 decision. Is that correct?

16 A. I was.

17 Q. Okay. So it would be correct to say that you were
18 aware of this decision since 1998?

19 A. Yes.

20 Q. Okay. If you go to the page 5 of this decision,
21 on the bottom of page 5 it says Findings of Fact. Do you see
22 that?

23 A. I do.

24 Q. "No. 1, CWRR seeks relief from regulation by
25 commission over its excursion passenger service."

26 "No. 2, CWRR's excursion surface does not constitute --"
27 and then in quotations, "' -- transportation under the
28 provisions of PU Code section 1007.'" Are you familiar with

1 what that means?

2 A. I am.

3 Q. Okay. So as of this decision, it appears that the
4 California Public Utilities Commission did not think that the
5 CWRR service constituted transportation. Is that correct?

6 A. No. That is not correct.

7 Q. Okay. What is wrong with that statement?

8 A. What's wrong with that statement is the same
9 inconsistency that people from 1998 until present date
10 continue to believe, and that is that the CPUC deregulated the
11 railroad. And that couldn't be further from the truth.

12 If you turn to page 6 and read line 1, it says that the
13 excursions and fares provided by the California Western
14 Railroad shall not be subject to the regulation by the
15 Commission.

16 And if you read further below that, you'll see that the
17 Commission reserves its right to fully regulate the railroad
18 in all other aspects.

19 Last week, the CPUC inspectors showed up to do their
20 routine inspections of the railroad as an entity that was
21 deregulated or not under the jurisdiction of the California
22 Public Utilities Commission.

23 Q. Okay. But my question did not have anything to do
24 with the jurisdiction of the Public Utilities Commission, or
25 whether or not it's still regulating Mendocino Railways.

26 My question referred to what the finding in No. 2 states.
27 CWRR's excursion services does not constitute a transportation
28 under code section 1007.

1 And my question is is that -- is it your understanding
2 that as far as the PUC is concerned, the CWRR's excursion
3 service does not constitute transportation?

4 A. Yes. But all of the other services do constitute
5 transportation.

6 Q. Okay. But it's your understanding that the PUC
7 believes that your service does not constitute transportation
8 from 1998. Is that correct?

9 A. With respect to excursion.

10 Q. Okay. And No. 3, which is on page 6, the primary
11 purpose of CWRR's excursion services is to provide its
12 passengers an opportunity for sightseeing. Is that correct?

13 A. With respect to the -- what it says is absolutely
14 correct.

15 Q. All right.

16 A. That its excursion services are for sightseeing.
17 It's other services are not.

18 Q. Okay. And finding No. 4 says the Commission has
19 concluded that sightseeing is not a public utility function.
20 And it is your understanding that that's what the PUC
21 believes. Is that correct?

22 A. Sightseeing is not considered a public utility
23 function. That is correct. But all other aspects of the
24 railroad in what we do are.

25 Q. And when you're referring to other aspects, you're
26 referring to the movement of freight, and the passenger
27 transportation. Is that right?

28 A. That is correct.

1 Q. All right.

2 A. And the other services that we provide to other
3 public utilities as I testified earlier, AT&T, Pacific Gas and
4 Electric, in 2011 when we transported just about every law
5 enforcement agency in the state and the nation on a 37-day man
6 hunt, and transportation or the contemplation of transporting
7 water for a municipal government.

8 Q. Okay. All right. Thank you.

9 And then, if you look at finding No. 5, it says the
10 Commission currently regulates the safety of all services
11 provided by CWRR. Do you see that?

12 A. I sure do.

13 Q. And that is a true statement?

14 A. Absolutely.

15 Q. If you look at finding No. 6, it states, "While
16 the Commission ceased to regulate the schedules and fares of
17 sightseeing services provided by bus operators, the safety of
18 operations remain subject to regulation by state agency." Is
19 that true?

20 A. I'm not familiar with the bus business.

21 Q. Okay. And the next -- next section is titled
22 Conclusions of Law.

23 No. 1: In providing excursion passenger services, CWRR
24 does not function as a public utility. Is that correct?

25 A. In providing excursion passenger services, CWRR
26 does not function as a public utility. That is correct.

27 So our excursion services are not subject to the
28 regulation of fares and schedule.

1 THE COURT: Mr. Johnson, my clerk has not had a
2 break since 1:15. I think I bypassed it.

3 So if can we just take a quick 15-minute break so that
4 I'm not violating any rules here? So we'll be back at 4:05.

5 (Recess)

6 THE COURT: Let's go back on the record,
7 Mr. Johnson.

8 BY MR. JOHNSON:

9 Q. Yes. Thank you, Your Honor.

10 Mr. Pinoli, will you look at the document Request for
11 Judicial Notice, Exhibit K?

12 A. Okay.

13 Q. All right. That is a court of appeal case for the
14 first appellate district, and it's titled City of St. Helena
15 v. Public Utility's Commission. It's dated June 21, 2004, and
16 it is referenced as 119 Cal.App.4th 793.

17 Are you familiar with this decision?

18 A. Vaguely.

19 Q. Okay. And do you recall reviewing it at some
20 point?

21 A. Briefly. At some point, yes.

22 Q. Okay. Do you know when that would have been?

23 A. I don't.

24 Q. Do you know what the decision says or stands for?

25 A. No. If you -- if you wanted to refresh my memory,
26 that would be great.

27 Q. All right. This is a decision in which there was
28 -- the Court was asked to evaluate the Wine Train and the

1 services that the Wine Train provides in Napa County.

2 Are you familiar with the Wine Train.

3 A. I am.

4 Q. Does one of your companies own the Wine Train?

5 A. No.

6 Q. So the Sierra Northern, or Sierra Railroad doesn't
7 own the Wine Train?

8 A. No, sir. We do not.

9 Q. Okay. And in this decision, the court of appeal
10 evaluates and discusses the services that the Wine Train
11 provides, and, also in the discussion, it evaluates the CPUC's
12 decision involving the Skunk Train and the -- the services
13 that the Skunk Train provides.

14 And I won't go specifically through it, but there is a
15 few things I would like to review with you.

16 If you look at page 7 of this decision -- when I refer to
17 7, I'm talking about up on the top right there is a page
18 number.

19 A. Yes, sir.

20 Q. Okay. On -- on this Section 1, it says, "The Wine
21 Train is not a common carrier providing 'transportation'," and
22 transportation is in quotations.

23 Do you -- do you -- are you familiar with this portion of
24 the decision at all?

25 A. No. I mean, I -- I'm happy to read it, if you'd
26 like.

27 Q. All right. So, I mean, just as you sit here
28 today, you're not aware of the fact that the -- the California

1 Court of Appeal determined that the Wine Train did not provide
2 transportation. Is that correct?

3 A. Transportation defined as?

4 Q. Well, according to this, under that Section 1 here
5 that is referenced, it says, "Our Supreme Court has defined
6 transportation as the taking up of persons or property at some
7 point and putting them down at another."

8 That's how they define transportation in this case.

9 A. Sure.

10 Q. All right. And so -- so prior to today, were you
11 aware of the fact that the Wine Train did not provide
12 transportation as defined by this case?

13 MR. BLOCK: I'm going to object, Your Honor.

14 I'm not sure where this line of questioning is going, but
15 I'm not sure what the relevance is of reading Mr. Pinoli from
16 a legal decision or even his understanding of a -- of a legal
17 decision.

18 THE COURT: Mr. Johnson, I don't know where you're
19 going with this.

20 MR. JOHNSON: That's fine, Your Honor. I'll tell
21 you where I'm going with this.

22 THE COURT: Okay.

23 MR. JOHNSON: I guess where I'm going with it --
24 and I can deal with it differently, but where I'm going with
25 it is, authoritatively, throughout this process the Mendocino
26 Railway in every document that they have filed with the court
27 and continually throughout the testimony of Mr. Pinoli, he has
28 stated that they are a public utility, a common carrier, a

1 railroad corporation, and that they are subject to the powers
2 that those types of entities have to proceed with in an
3 eminent domain action.

4 So, collectively, he's said it hundreds of times
5 throughout this hearing. And my question to him is I'm trying
6 to understand if he really understands what those terms mean.

7 THE COURT: Okay. Well, I think you're getting
8 into an area where you're really asking him for, you know,
9 some legal opinions.

10 MR. JOHNSON: Okay. That's fine. I'll --

11 THE COURT: And I don't know that it makes any
12 difference.

13 He's testified over the last couple of days -- three
14 days, now, of what the train is all about, and what they
15 intend to do and have done.

16 And I think then it becomes a legal question, I think.

17 MR. JOHNSON: Okay. Well, Your Honor, I would
18 just request that the -- that you read this decision.

19 THE COURT: Well, of course I will.

20 MR. JOHNSON: Thank you.

21 THE COURT: And don't assume that I haven't
22 already read it.

23 MR. JOHNSON: Good point.

24 Your Honor, I would -- I would move to have the -- or, I
25 don't know if I did move already to have the documents in the
26 request for judicial notice and the supplemental request for
27 judicial notice accepted into evidence.

28 THE COURT: Well, the Court can take judicial

1 notice of these documents. I don't know that you need to move
2 them in as exhibits, or anything. I'll take judicial notice.

3 MR. JOHNSON: Just judicial notice. Thank you.

4 MR. BLOCK: And so I assume that the Court will
5 take judicial notice of the plaintiff's request for judicial
6 notice and supplemental?

7 THE COURT: Absolutely.

8 MR. BLOCK: Thank you, Your Honor.

9 MR. JOHNSON: Okay. Your Honor, I would also like
10 to move in exhibit -- my exhibits.

11 We haven't discussed them, and I don't think it's
12 necessary to go through them specifically right now.

13 But I would like to move in the responses to certain
14 special interrogatories and form interrogatories that were
15 provided by Mendocino Railway, and they are these documents
16 referenced in the exhibit binder, Plaintiff's Exhibit H;
17 Plaintiff Mendocino Railway's response to Defendant John
18 Meyer's special interrogatory, Set 1.

19 Also, Exhibit J, plaintiff's response to form
20 interrogatories Set 1.

21 And, also, Exhibit K, plaintiff's responses to Meyer's
22 request for admissions, Set 1.

23 And the specific interrogatories, or responses, that I
24 would request the Court take judicial notice of are special
25 interrogatory No. 1, special interrogatory No. 4, special
26 interrogatory No. 7, special interrogatory No. 23, special
27 interrogatory No. 24, and special interrogatory No. 25.

28 And I think it should be special interrogatory No. 4, but

1 it is mistakenly referred to again as No. 24.

2 And, then, also, form interrogatory response 17.1.

3 THE COURT: Okay.

4 MR. JOHNSON: Thank you, Your Honor.

5 THE COURT: Any objection to the admission of
6 these?

7 MR. BLOCK: Not really an objection, just a
8 clarification.

9 I mean, first of all, it's just our responses. And while
10 our responses recite the request, it doesn't include the
11 definitions, and things like that.

12 So I think the -- the request should also be provided to
13 the Court so the Court has a full record to define terms and
14 all of that, No. 1.

15 No. 2, the request for admissions, obviously, need to be
16 included if you're going to look at 17.1 of the form logs. So
17 let's have a full and complete record, requests, responses.

18 MR. JOHNSON: That's fine Your Honor.

19 THE COURT: Can you submit those?

20 MR. JOHNSON: Yeah. You know, the reason I didn't
21 is because Mr. Block specifically put in the request before
22 the answer. But I have no problem submitting those.

23 THE COURT: Why don't you submit that as well.

24 MR. JOHNSON: Thank you.

25 MR. BLOCK: So no objection to H, J, and K. And,
26 maybe, to save exhibit numbers and everything, to each of the
27 exhibit numbers will be the request and the responses.

28 THE COURT: All right. So Exhibits, H, J, and K

1 will be received.

2 MR. JOHNSON: Thank you, Your Honor.

3 (Respondent's Exhibits H, J, and K were admitted into
4 evidence.)

5 BY MR. JOHNSON:

6 Q. You know, Mr. Pinoli, I would refer you to the
7 exhibit binder, the big one. And there is Exhibit No. 5. And
8 I'd specifically refer you to Exhibit 5-3.

9 A. Okay.

10 Q. I believe you testified yesterday that this
11 references the freight cars that Mendocino -- or freight and
12 other cars -- well, can you -- why don't you just state what
13 does Exhibit 5.3 reflect?

14 A. Sure. I believe that this was testimony on the
15 first day of trial. And it is railroad freight and MOW cars.

16 The right -- excuse me, the left-hand column is the car
17 number.

18 The type of equipment is the next column.

19 The model number has what are various reporting marks, and
20 other notes or features, the location at the time the list was
21 prepared.

22 And then the far right column would be any additional
23 notes that are important.

24 Q. Okay.

25 A. The cars -- I'm sorry. Go ahead.

26 Q. No. Go ahead. I didn't mean to interrupt you.

27 A. The car, the cars are tank car, rock car, flat
28 car, flat car, and a rock car/side dump.

1 THE REPORTER: Slash what?

2 THE WITNESS: Side dump.

3 BY MR. JOHNSON:

4 Q. So it appears that in the Fort Bragg location
5 there is one tank car and one flat car. Is that correct?

6 A. At the time this list was created, yes.

7 Q. Do you know when this list was created, about?

8 A. I don't recall. I'm sorry.

9 And the last time I did a walk through the yard, I do
10 believe that that was -- that is correct that the tank car and
11 one flat car were in Fort Bragg.

12 Q. Okay. And then it appears in Willits there is one
13 rock car, one flat car, and one rock car/side dump. Is that
14 correct?

15 A. Yes. That sounds correct.

16 Q. All right. Now, are these -- are these cars that
17 are referenced, do you use those for maintenance of the line?

18 A. They can be used for maintenance of the line.

19 Q. Okay. Do you use them for maintenance of the
20 line?

21 A. On occasion, we do.

22 Q. So if you need to dump rock, you would use a rock
23 car. Is that right?

24 A. That's correct.

25 Q. And if you needed to take say, for example,
26 railroads rails out, you would use a flat car. Is that right?

27 A. That's correct.

28 Q. And these represent, basically, all the

1 freight/maintenance cars -- is that right? -- that Mendocino
2 Railway owns?

3 A. It would represent the freight cars, yes.
4 Maintenance -- additional maintenance equipment would be
5 listed on Exhibit 5-4.

6 Q. Okay. All right. All right. Thank you very
7 much.

8 If you'll flip to Exhibit 10?

9 A. Okay.

10 Q. It appears -- and this -- would it be correct to
11 say that these are -- or can you explain what -- it says
12 Commute Fares. Can you explain what these documents reflect?

13 A. So there are three separate documents in here, and
14 these are updates to the commute fares for the years 2014,
15 2016, and 2017.

16 And as I testified to earlier, these set out the terms
17 for the depo staff, the ticket agents on which to -- on how to
18 process commute tickets, and also supplies a list in each of
19 the documents where there are residences, who the residences
20 are, their last names, and designates stations that are in
21 bold that are designated flag stops.

22 While we may be a flag stop railroad, for any of the
23 40 miles, these are the designated flag stops to be on the
24 lookout.

25 Q. Okay. So these would be -- these are what are
26 called commute fares? For example, we'll look at the last
27 one, which was updated in 2017.

28 That starts at Exhibit 10.17.

1 A. Okay.

2 Q. All right. So is it correct to say that these are
3 the fares that would apply if -- I think you testified earlier
4 that sometimes they weren't round trips; they were one-way
5 trips. Is that right?

6 A. That's correct.

7 Q. So if there was a round trip, or excursion trip,
8 they would not use these commute fares, right?

9 A. If there was an excursion trip, they would not use
10 these fares.

11 If there was a round trip for somebody going out to a
12 residence and returning the next day or days later, they would
13 use these fares, because it would be to an intermediate
14 station along the route.

15 Q. All right. And -- and this 2017, would that be
16 the commute fare that would be in a place now?

17 A. No. That's a separate document that we reviewed.
18 That's another exhibit in this binder.

19 Q. Oh. So this isn't the exhibit now?

20 A. It was replaced by a document -- give me a second.
21 I can point you to where it's at, perhaps.

22 MR. BLOCK: Exhibit 7.

23 BY MR. JOHNSON:

24 Q. Okay. Exhibit 7 went into effect, it looks like,
25 on January 1, 2022. Is that correct?

26 A. That's correct.

27 Q. All right. So that was after the filing of this
28 action. Is that right?

1 A. That's correct.

2 Q. I would like to go back to Exhibit 10 to the --
3 let's see here. Exhibit 10. It starts at Exhibit 10-17.

4 If you go to page 10-21, it says on the top of this page
5 Designated Stations and Family Names. Designated station
6 stops are in bold, and all other -- all other are flag stops.
7 Is that correct?

8 A. Yes, sir.

9 Q. And then it has -- it looks like it has stations
10 on the left side, and then on the right side are the people
11 that live near those stations. Is that correct?

12 A. The -- the last names of folks that live at those
13 stations, yes. First names too, in some cases.

14 Q. All right. And then that one -- this one appears
15 to be for the Fort Bragg line.

16 And, then, if you flip the page to 10-23, that appears to
17 be for the -- for the Willits area. Is that right?

18 A. Yes. Yes.

19 Q. Okay. And, then, if you go to 10-24, that appears
20 to be the fares as it relates to the different stations. Is
21 that right?

22 A. Yes.

23 Q. If you go down to the bottom here, and look at the
24 second sentence, it states tickets may not be sold to
25 nonresidents of the line or guests thereof, and are defined by
26 the preceding list. Is that correct?

27 A. Yes.

28 Q. So does that mean that the only people that can

1 buy these commuter tickets are the ones that are listed on the
2 previous pages?

3 A. Given that it is all private property and there is
4 no public lands, you wouldn't be transporting somebody to
5 trespass.

6 Q. Okay. So the answer is yes. Is that correct?

7 A. That's correct.

8 Q. So the only commute -- the only people that can
9 buy commuter tickets are the ones that effectively live out
10 there or their guests?

11 A. That's not necessarily correct, because when
12 through service was offered before the closure of the tunnel,
13 the railroad had a partner arrangement with Mendocino Transit
14 Authority, and passengers could ride from either Fort Bragg or
15 Willits to the opposite end one way without restriction.

16 Q. Okay. But the way that it's written here, that's
17 the way it works now, right?

18 A. Yes.

19 THE COURT: Can I -- can we explore this further?
20 So there was an agreement with MTA?

21 THE WITNESS: Yes. Over the years, it started out
22 when Glenna Blake was working for MTA, and, certainly, before
23 she had passed away, that there was an arrangement with MTA
24 where you could buy a ticket similar to, like, a punch card,
25 if you will.

26 And you could use that punch card to travel between Fort
27 Bragg and Willits, or vice versa.

28 THE COURT: And it wasn't for sightseeing, or the

1 tours that are given, or anything? It was just to get to and
2 from?

3 THE WITNESS: That is correct, Your Honor.

4 THE COURT: So is there any documentation of that
5 agreement? How long ago was that?

6 THE WITNESS: I would have to look. It's been
7 something that the railroad has done on again, and off again.

8 The -- when Ms. Blake was alive, it was -- they had
9 received -- as I recall, they had received some grant money.
10 And it was the grant money that they used to pay, or -- or
11 support/subsidize the program.

12 THE COURT: But that program -- when did it stop?
13 I mean, when was the last person to utilize that program?
14 When did that happen?

15 THE WITNESS: I don't recall when the last person
16 was to utilize the program. I certainly know that it did stop
17 as a result of the tunnel's closure.

18 THE COURT: Okay. That would be important
19 information. If there are any agreements within MTA, I would
20 really like to see those.

21 MR. BLOCK: Mr. Pinoli, can you search for those?

22 THE WITNESS: Yes. We will absolutely do a search
23 for those, and, to the extent that they exist, we will make
24 them available to our counsel.

25 THE COURT: Okay.

26 MR. BLOCK: I would also -- I mean, while we're on
27 the topic, I'll just point out that there is a reference to
28 commute passenger service with the MTA --

1 THE COURT: Right.

2 MR. BLOCK: -- in the city of Fort Bragg. Staff
3 report regarding the build grant.

4 THE COURT: Okay.

5 MR. JOHNSON: Just on the record, for this
6 particular question-and-answer session, I would like to read
7 what Mr. Pinoli said in his deposition.

8 THE COURT: Okay. What page.

9 MR. JOHNSON: 27. This is page 27, line 12.

10 "QUESTION: Okay. And then the ongoing passenger
11 rail operations, can you give us a general overview of what
12 they consist of?"

13 "ANSWER: At present, there are trains that depart
14 from Fort Bragg and Willits."

15 "Those trains do carry passengers between two towns, or
16 between Fort Bragg and its then destination and back to Fort
17 Bragg, and Willits to its end destination and back to
18 Willits."

19 "Throughout the course of the year, the railroad is
20 called upon by residents of the line who may have access
21 impaired because of weather, or simply the location, and that
22 the only way for them to get in and out is by rail."

23 "QUESTION: Okay. So are you just -- just to
24 clarify, you're running rail -- you're running passengers out
25 from Fort Bragg and then back to Fort Bragg on a daily basis.
26 Is that correct?"

27 "ANSWER: At this time of year, multiple times per
28 day."

1 "QUESTION: And in the wintertime, the trips go
2 down? "

3 "ANSWER: The schedule has a decrease, but we
4 don't ever have a month or a week, let's say, where we're not
5 operating."

6 "QUESTION: Okay. And, then, you also do the same
7 thing from Willits. Is that correct?"

8 "ANSWER: That is correct."

9 "QUESTION: You go back -- you go out, and come
10 back?"

11 "ANSWER: That is correct."

12 "QUESTION: And those are -- those passenger
13 services are mainly for tourism purposes. Is that correct?"

14 "ANSWER: Yes."

15 THE COURT: Thank you.

16 BY MR. JOHNSON:

17 Q. I believe Mr. Block asked you last week, or -- not
18 last week, a day or so ago about the commuter fares. Is that
19 correct?

20 A. Yes.

21 Q. And I believe he stated that these commutes --
22 commuter fares were -- were something that the public could
23 take advantage of. Is that correct?

24 A. That's correct.

25 Q. And, in fact, based on what's stated here at
26 least, at the time frame that this lawsuit was filed, the
27 public could not take advantage of those commuter fares unless
28 the person actually lived out there on the line. Is that

1 right?

2 A. I'm sorry. Repeat the question, please?

3 Q. The only people that could take advantage of the
4 commuter fares at the time the lawsuit was filed were people
5 that lived on the line -- is that right? -- and their guests?

6 A. That is correct.

7 Q. Did you -- did you review the trial brief that was
8 filed by the Mendocino Railway?

9 A. Yes.

10 MR. JOHNSON: I don't -- I don't have an extra
11 copy of it.

12 THE COURT: Do you want me to give him mine? I
13 printed it out of my notebook.

14 BY MR. JOHNSON:

15 Q. Okay. That would be great.

16 Okay. I'd like to refer you to the bottom of page 10 of
17 the Mendocino Railway trial brief.

18 A. Okay.

19 Q. At the last -- so it's the very last sentence that
20 is cut off on the bottom of page 10.

21 It starts out and states, "The STB has exclusive
22 jurisdiction over the construction and operations of railroad
23 property and facilities."

24 And then it references a federal court case. And then it
25 states, "That means state and local laws and regulations
26 governing railroad construction and operations are federally
27 preempted, but different state law cannot be used to impair a
28 federal railroad's ability to operate and conduct needed

1 facilities."

2 Do you see that?

3 A. I do.

4 Q. So in saying that -- in making that statement, do
5 you have any idea, or do you know -- are you -- is the
6 Mendocino Railway making the argument that the state court
7 does not or should not be evaluating whether or not eminent
8 domain can occur on -- on Mr. Meyer's property for this
9 project?

10 A. I believe you're asking me two different
11 questions.

12 You're asking me a question of if the federal
13 jurisdiction which allows railroads to construct facilities
14 consistent with its operation are different than the state
15 laws surrounding eminent domain which the state courts have
16 jurisdiction over.

17 So you're asking me, I believe, two different questions.

18 Q. Well, I'll rephrase the question.

19 A. I'm happy to carry on, if you'll oblige.

20 Q. Okay.

21 A. And that is that the Mendocino Railway recognizes
22 that a state court has the jurisdiction. It's our complaint
23 against Mr. Meyer, and we're here and have been here for three
24 days.

25 So to suggest that the state court doesn't have
26 jurisdiction in this matter, we would be sitting here contrary
27 to that belief.

28 Q. Okay. Good. Thank you.

1 So just to -- just to be clear, it would be correct to
2 state that the Mendocino Railways does not believe that
3 federal law preempts California eminent domain laws that apply
4 to the taking of Mr. Meyer's property. Is that right?

5 MR. BLOCK: You asked for his understanding,
6 correct?

7 BY MR. JOHNSON:

8 Q. Yeah. Your understanding?

9 A. My understanding is that if we were using a
10 federal preemption, then this would be the wrong venue to
11 argue that.

12 Q. Okay. So would it be correct to say, then, that
13 the federal preemption does not apply to the taking of
14 Mr. Meyer's property?

15 MR. BLOCK: Objection. Calls for a legal
16 conclusion.

17 THE COURT: Yeah. It calls for a legal
18 conclusion. But I think he's answered your question based on
19 his understanding.

20 MR. JOHNSON: All right.

21 THE WITNESS: Your Honor, would you like this
22 back?

23 THE COURT: Yes. Thank you.

24 MR. JOHNSON: I have a few photographs I would
25 like you to look at.

26 Perhaps I can just give them to you to mark for me, and
27 then I'll continue to ask a couple more questions? Thank you.
28 Let's do them individually so it will be easier to identify.

1 BY MR. JOHNSON:

2 Q. Okay. Mr. Pinoli, I believe it was yesterday.

3 On one of the days we were here, you went into a
4 discussion -- you went into a discussion about the
5 requirements for -- infrastructure requirements for hauling
6 freight. Is that correct?

7 Do you recall that as far as the weight capacity for
8 bridges and things?

9 A. Bridge standards. 286 standards? Yes.

10 Q. Can you state those standards require that the
11 bridges be able to withstand 286,000 pounds?

12 A. That's correct.

13 Q. So that applies -- that -- that weight applies --
14 how is that analyzed?

15 A. The -- the requirement doesn't -- so in order to
16 be 286 compliant, it doesn't mean that your bridges have to
17 withstand 286,000 pounds, unless you have a car that exceeds
18 its load 286,000 pounds.

19 If you don't have a car that exceeds 286,000 pounds, then
20 the 286 standard doesn't apply.

21 But if you're checking the 286 box, then you're checking
22 the box that says your bridges are 286 compliant.

23 Q. Okay. And I believe you testified that your
24 bridges are compliant with that. Is that correct?

25 A. All of the bridges of the railroad are compliant
26 with 286 standards, and meet Class 1 conditions.

27 Q. Okay. Now, I believe you also testified yesterday
28 that the -- from the Willits side -- when you leave the

1 station from the Willits side, generally, the train goes out
2 -- the excursion passenger train goes out seven-and-a-half
3 miles and then returns. Is that correct?

4 A. Yes, sir. The excursion passenger train travels
5 about seven-and-a-half miles, and then returns.

6 Q. Now, are there -- on a regular basis, are there
7 trains that are going farther from Willits -- farther out the
8 line?

9 A. There are.

10 Q. What are those trains?

11 A. Work trains and/or the transportation of
12 passengers to the residences.

13 Q. Okay. So those would be the commuters that we
14 just discussed? Those families?

15 A. Yes, sir.

16 Q. So besides maintenance and those commuter trains,
17 are other trains going out there?

18 A. Besides maintenance, there may be, yes,
19 absolutely.

20 East -- excuse me, west of where the current excursion
21 operations stop, there are service requests for freight or for
22 other public utilities to access and service their
23 infrastructure.

24 So there are trains that do travel beyond the limits of
25 where an excursion train would travel.

26 Q. Okay. So those trains would go out there if there
27 was a request for freight or some other type of request. Is
28 that correct?

1 A. That's right.

2 Q. Now, does the Mendocino Railway keep its tracks to
3 the same standards in the first seven-and-a-half miles as they
4 do for the remainder of the track?

5 A. So the -- the entire railroad meets a Class 1
6 standard. The -- the first seven-and-a-half miles departing
7 Willits may be Class 1 Plus, maybe up to a Class 2, possibly.

8 But the -- the requirement for maintaining the railroad's
9 infrastructure doesn't change.

10 Q. Okay. But I would expect that the investment in
11 the tracks do change. Is that correct?

12 A. I'm sorry. Could you clarify?

13 Q. The Mendocino Railway's investment in the tracks
14 after the seven-and-a-half miles is probably a lot less per
15 mile than, say, the first seven-and-a-half miles. Is that a
16 correct statement?

17 A. Not necessarily. Because we -- if there are
18 issues, we will address those issues.

19 Q. Okay. When -- it's your intent to, or it's the
20 Mendocino Railway's intent to expand its freight operations.
21 Is that correct?

22 A. That's correct.

23 Q. Is it going to require additional investment in
24 the actual rail lines and maintenance of the rail lines?

25 A. Yes. The maintenance is ongoing, sort of equated
26 to the painting of the Golden Gate bridge. It never stops.

27 Q. Okay. But your plan is -- based on your
28 testimony, is to have transloads and other things that you're

1 not doing right now.

2 And my question to you is would that require the railroad
3 to significantly spend a significant amount of more money on
4 the maintenance and improvement of its existing rail line
5 before it can proceed on that kind of operation?

6 A. There needs to be improvements, but that is
7 continuous. Significant improvements? I wouldn't
8 characterize it as significant improvements.

9 MR. JOHNSON: Okay. You know, Your Honor, at this
10 point, I have these -- these photographs, and then I have a
11 few additional documents, but I'm not going to be able to get
12 all of this done in the next 15 minutes.

13 THE COURT: Okay. So let's go off the record.

14 (Discussion held off the record.)

15 THE COURT: Back on the record. So let's just
16 wrap up for today. So we're going to recess for today. We're
17 going to resume on Monday at 9:00 a.m.

18 Counsel for the plaintiff may appear via Zoom, given the
19 distance that they have traveled, and I won't hold it against
20 you at all.

21 And you just need to log into Department E Zoom, and
22 we'll have that on.

23 And then Mr. Pinoli will be here in person, and,
24 Mr. Johnson, you'll finish your questions and get your
25 exhibits in. And then if there is any redirect, feel free to
26 do that.

27 MR. BLOCK: Thank you.

28 THE COURT: Okay?

1 MR. BLOCK: Thank you, Your Honor.

2 THE COURT: Thank you.

3 (Recess)

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1 STATE OF CALIFORNIA)
) SS.
2 COUNTY OF MENDOCINO)
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6 CERTIFICATE OF REPORTER
7

8 I, CAROL JEANNETTE DEUCHAR, A CERTIFIED SHORTHAND REPORTER OF
9 THE STATE OF CALIFORNIA, DO HEREBY CERTIFY THAT THE FOREGOING
10 PAGES, NUMBERED 173 TO 322, VOLUME NO. 2, INCLUSIVE, ARE A
11 TRUE AND CORRECT TRANSCRIPTION OF MY SHORTHAND NOTES TAKEN ON
12 AUGUST 25, 2022, IN THE MATTER ENTITLED, MENDOCINO RAILWAY,
13 PETITIONER, VERSUS JOHN MEYER, RESPONDENT, NO.
14 SCUJ-CVED-2020-74939 IN THE CIVIL FILES OF THE SUPERIOR
15 COURTS, STATE OF CALIFORNIA.
16
17
18
19

20 DATED THIS 24TH DAY OF SEPTEMBER, 2022.
21
22

23 *Carol Jeannette Deuchar*
24

25 CAROL JEANNETTE DEUCHAR

26 CERTIFIED SHORTHAND REPORTER, #13877
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