

Good evening, Mr. Mayor and City Council. My name is Alex Helperin, and I'm the Assistant General Counsel for the Coastal Commission.

For anyone unfamiliar with the commission, we're a state agency that regulates development along the coast to protect a wide range of resources from public access to habitat and water quality to views and more pursuant to the Coastal Act.

I'd like to explain the Commission's experience with the railway over the last several years.

First, I want to be clear about the relationship between this community's process for determining how the mill site gets developed on the one hand and our dispute with Mendocino Railway on the other. We understand that the focus of this process is how the former mill site gets developed, and the Commission is interested in that as well. But prior to last November, we weren't even aware that discussions about the development of the site were taking place.

We've been involved in a six-year dispute with the railway over whether any of its development plans, whether for the mill site or elsewhere, are subject to our review, with the railway refusing until very recently to concede that the Commission had any role whatsoever, and with one small exception, never submitting any application to the Coastal Commission authorization for any of its work in Fort Bragg. So our focus has necessarily been on the threshold jurisdictional issue in order to simply secure a seat at the table.

We eventually determined that we needed to join the city in its lawsuit against the railway just to establish our jurisdiction, and that has continued to be our main focus. Again, we didn't even know that planning discussions were taking place until November, and it wasn't until mid-December that we were able to get a meeting with the railway.

With respect to the development plans, as I mentioned, the Commission's role is to ensure that any plans protect coastal resources and involve appropriate land uses. So whenever someone asks the commission staff what sort of development we'd recommend our Commission approve, we try to provide an answer, and that's what we've done here recently. But we've only had the opportunity to provide some very high-level comments, and ultimately it's not our staff, but our Commission that makes the final decision, after a thorough public process and at a public hearing. So that's what will happen here as well.

Finally, I'd like to correct some false statements made at the workshop two weeks ago. First, the railway's claims that the Commission is violating federal law by ignoring preemption are false and unnecessarily inflammatory. We clearly have a different interpretation of those issues, and we're following the law as we understand it. To date, the railway hasn't provided any clear evidence that it's more than an excursion operation whose development would be subject to state and local regulation.

Second, the railway claimed that since day one, they've been saying that they would submit to state and local regulation of the development of the former mill site. They never said that to us until just in the last few weeks, and even that recent statement came with qualifiers. I personally asked many times over the years, and all the responses I received listed things they claimed are not subject to any review or oversight. They never listed a single specific activity that they would concede as subject to Coastal Act review. It was their consistent failure to acknowledge the Coastal Act obligations that led us to feel that we needed to join the lawsuit.

Finally, the railway's lawyer stated that the Commission was trying to shut down the Skunk Train at the last meeting. We've never sought to do that or said anything to suggest that we had any interest in anything like that. We're simply trying to ensure that the railway complies with the city's local coastal program and the Coastal Act.

I tried to get that within three minutes. I hope you appreciate that. I was going to say that I'll remain available for questions until the end of the meeting, but I think we're pretty much at the end of the meeting, but I will remain available if anyone has any questions for me. Thank you.