

FILED

06/07/2021 EXEMPT FROM FILING FEES
[Govt. Code § 6103]

KIM TURNER, CLERK OF THE COURT
SUPERIOR COURT OF CALIFORNIA,
COUNTY OF MENDOCINO

Delgado, Samuel
DEPUTY CLERK



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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **FOR THE COUNTY OF MENDOCINO**

9 MENDOCINO RAILWAY,

10 Plaintiff,

11 v.

12
13 LORENA RUTH SHEA; MENDOCINO
14 COUNTY TREASURER-TAX COLLECTOR;
15 CALIFORNIA DEPARTMENT OF HEALTH
16 CARE SERVICES; All other persons
unknown claiming an interest in the
property; and DOES 1 through 100,
inclusive,

17 Defendants.

Case No. SCU-K-SVED-2020-74846

[APN 008-130-02]

~~[Proposed]~~ **JUDGMENT AND FINAL
ORDER OF CONDEMNATION**

18
19 Plaintiff MENDOCINO RAILWAY (hereinafter "Mendocino Railway") and
20 defendants LORENA RUTH SHEA and MENDOCINO COUNTY TREASURER-TAX
21 COLLECTOR (collectively, "Defendants") (parties hereto may be individually
22 referenced herein as "Party," or may be collectively referenced herein as
23 "Parties") having stipulated, a Judgment and Final Order of Condemnation as
24 to the property described in the Complaint on file herein, (the "Subject
25 Property"), may be made and entered in accordance with these terms and
26 conditions and without further notice to any of the defendants.

27 **IT APPEARING** that on or about November 18, 2020, the Mendocino
28 Railway filed a Complaint in Eminent Domain, Mendocino County Superior Court

1 Case Number SCUK-SVED-2020-74846 against Defendants and others (the
2 “Eminent Domain Action”), seeking to acquire all right, title and interest in and
3 to the Subject Property located at 476 Alger Street, in the City of Fort Bragg,
4 County of Mendocino, State of California, which property has been assigned
5 Assessor's Parcel Number 008-130-02 and is more particularly described as
6 follows:

7
8 Starting from the corner to Sections 1 and 12, Township 18
9 North, Range 18 West, and Sections 6 and 7, Township 18
10 North, Range 17 West, Mount Diablo Base and Meridian,
11 and running thence East, 3390 feet; and thence North 575
12 feet to and for the point of beginning, and thence on the
13 exterior boundaries of said lot and parcel of land North 231
14 feet; thence South 63° East, 143 feet; thence South 34 1/2 °
15 East, 160 feet; thence South 13 ° East to a point due East of
16 the point of beginning; thence West to the point of
17 beginning.

18 **IT FURTHER APPEARING** that the Mendocino Railway’s acquisition of the
19 Subject Property is necessary for maintenance and safety of its railroad
20 operations adjacent to the Subject Property (“Project”), a public use.

21 **IT FURTHER APPEARING** that on or about November 17, 2020, Mendocino
22 Railway deposited with the State Treasurer the sum of one hundred fifty-five
23 thousand dollars (\$155,000) as probable just compensation for the Subject
24 Property pursuant to Code of Civil Procedure section 1255.010 (the “Deposit”)
25 based on an appraisal as reflected in the Summary of Appraisal Opinion filed
26 November 18, 2020.

27 **IT FURTHER APPEARING** that, by Stipulation filed concurrent with this
28 document, Mendocino Railway and Defendants have agreed on full and final

1 settlement of any and all issues in this matter for the sum of one hundred fifty-five
2 thousand dollars (\$155,000) ("Total Compensation"). Defendant LORENA SHEA
3 and Defendant Mendocino County Treasurer-Tax Collector are entitled to
4 compensation in this proceeding as set forth below.

5 **IT FURTHER APPEARING** that on or about November 24, 2020, Defendant
6 LORENA SHEA was duly served with the Complaint, through her daughter and
7 attorney-in-fact by virtue of the Power of Attorney executed by Lorena Shea on
8 April 29, 2015. Defendant LORENA SHEA, as her sole and separate property, is
9 the fee owner of the Subject Property, a single-family residence. Said
10 Defendant is entitled to the Total Compensation in this proceeding as set forth
11 below.

12 **IT FURTHER APPEARING** that on or about November 24, 2020, Defendant
13 MENDOCINO COUNTY TREASURER-TAX COLLECTOR was duly served with the
14 Complaint and filed its Answer on or about December 23, 2020. Defendant
15 MENDOCINO COUNTY TREASURER-TAX COLLECTOR is the holder of a property
16 tax lien against LORENA SHEA in the amount of \$5,335.24 through May 31, 2021
17 and any other amounts due thereunder. Said Defendant is entitled to payment
18 from the Total Compensation in this proceeding as set forth below.

19 **IT FURTHER APPEARING** that Defendant CALIFORNIA DEPARTMENT OF
20 HEALTH CARE SERVICES was duly served with the Complaint and filed a
21 Disclaimer of Interest on or about March 1, 2021, disclaiming any interest in this
22 proceeding.

23 **IT FURTHER APPEARING** that the dismissal of ALL PERSONS UNKNOWN
24 CLAIMING AN INTEREST IN THE PROPERTY and the dismissal of Defendants DOE 1
25 through DOE 100 was entered by the court on May 26, 2021. Said defendants
26 are accordingly entitled to no compensation in this proceeding.

27 **IT FURTHER APPEARING** that on January 29, 2021, the Court entered an
28 Order for Prejudgment Possession effective 10 days after service of the Order.

1 The Order was served on Defendants on January 29, 2021 by electronic mail.
2 Accordingly, Mendocino Railway was authorized and empowered to take
3 possession of the Subject Property as of February 10, 2021.

4 **IT FURTHER APPEARING** that no other parties appearing in this action are
5 entitled to compensation in this proceeding except as expressly set forth herein.

6 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

7 1. The use for which the Subject Property is being acquired by
8 Mendocino Railway in this action, maintenance and safety of rail operations
9 adjacent to the Subject Property, is a public use authorized by law and the
10 acquisition of such interest is necessary to such use.

11 2. The stipulating defendants have waived the right to a Statement of
12 Decision, Notice of Entry of Judgment, Notice of Entry of Final Order of
13 Condemnation and any and all right to appeal as to any and all issues related
14 to the taking of the Subject Property. This Judgment and Final Order of
15 Condemnation constitutes full and final resolution of all issues as between
16 Mendocino Railway and all defendants related to Mendocino Railway's taking
17 of the Subject Property and precondemnation activities, including without
18 limitation all compensation, damages and benefits for real property,
19 improvements pertaining to realty, personal property, fixtures and equipment,
20 relocation benefits, pre- and post-condemnation damages, severance
21 damages, loss of inventory, loss of business goodwill, pre- and post judgment
22 interest, litigation expenses, and costs.

23 3. The total just compensation for Mendocino Railway's taking of the
24 Subject Property is the sum of one hundred fifty-five thousand dollars (\$155,000)
25 (the "Total Compensation"). The Total Compensation having been previously
26 deposited by Mendocino Railway, no further sums are due and owing by
27 Mendocino Railway.
28

1 5. The Subject Property is hereby condemned in fee simple for the
2 public use and purposes stated in the Complaint, maintenance and safety of
3 rail operations adjacent to the Subject Property, and all uses necessary and
4 convenient thereto. Mendocino Railway to take all right, title and interest in and
5 to the Subject Property, together with any and all improvements thereon, free
6 and clear of any and all liens, encumbrances, easements, leaseholds, and
7 current and delinquent taxes and assessments of whatever kind or nature
8 without further notice to any party.

9
10 DATED: 6/7/2021



Judge of the Superior Court