

No. 25-7442

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

CALIFORNIA COASTAL COMMISSION,

Petitioner,

v.

SURFACE TRANSPORTATION, and UNITED STATES OF
AMERICA,

Respondents.

**UNOPPOSED MOTION FOR LEAVE TO INTERVENE
AS RESPONDENT-INTERVENOR**

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CORPORATE DISCLOSURE STATEMENT

Sierra Railroad Company owns 100% of the stock of Mendocino Railway.

Pursuant to 28 U.S.C. sections 2323 and 2348, and Federal Rule of Appellate Procedure 15(d), Mendocino Railway (“MRY”) respectfully submits this unopposed motion for leave to intervene as Respondent-Intervenor in this matter.

ARGUMENT

The petition in this case, filed on November 25, seeks review of a recent declaratory order of the Surface Transportation Board (“STB” or “Board”). *Mendocino Railway—Petition for Declaratory Order*, Docket No. FD 36868, 2025 STB LEXIS 241 (STB served Sept. 26, 2025). The order confirms MRY’s status as “a Class III rail carrier subject to the jurisdiction of the Board and therefore entitled to any applicable benefits of federal preemption.” *Id.* at *1. MRY petitioned the STB for the declaratory order following court challenges to MRY’s federal-railroad status that state and local land-use permitting agencies, including Petitioner California Coastal Commission, have filed.

Under 28 U.S.C. section 2323, “any party or parties in interest to the proceeding before the Board, in which an order or requirement is made, may appear as parties of their own motion and as of right, and be represented by their counsel, in any action involving the validity of such order or requirement or any part thereof, and the interest of such party.”¹ A motion to intervene “must be filed within 30 days after the petition for review is filed and must contain a concise statement of the interest of the moving party and the grounds for intervention.” FRAP 15(d).

¹ See also 28 U.S.C. § 2348 (same).

Here, MRY petitioned the STB for the declaratory order under review in this case. Therefore, MRY is the “party . . . in interest to the proceeding before the Board” and is entitled by right to intervene in this case. Further this motion is also timely under FRAP 15(d) because it was filed within 30 days of the Coastal Commission’s petition. Therefore, MRY is entitled by right to intervene in this proceeding.

Neither the STB nor the Coastal Commission opposes MRY’s intervention in this proceeding.

CONCLUSION

For the foregoing reasons, the Court should grant MRY leave to intervene.

Date: December 15, 2025

Respectfully submitted,

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s/ Paul J. Beard II

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CERTIFICATE OF COMPLIANCE

I am the attorney of record in this case.

This brief contains 341 words. I certify that this brief complies with the word limit of Cir. R. 27(d)(2).

The brief's type size and typeface comply with Fed. R. App. P. 32(a)(5) and (6).

Signature: s/ Paul J. Beard II
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Date: December 15, 2025