

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

301087

ENTERED  
Office of Proceedings  
September 18, 2020  
Part of  
Public Record

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Finance Docket No. 36433

NORTH COUNTY TRANSIT DISTRICT  
VERIFIED PETITION FOR DECLARATORY ORDER

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**REPLY IN OPPOSITION TO REQUEST FOR EXTENSION**

The North County Transit District (“NCTD”) respectfully opposes the 20-day extension request by the California Coastal Commission (“Commission”) filed in the above-captioned proceeding. As noted in NCTD’s Verified Petition for Declaratory Order (“Petition”), it will begin the safety fencing project and another Del Mar Bluffs project this fall, both of which will be in its rail line right-of-way. The safety fencing project will likely be subject to review by City of Del Mar and/or the Commission under state law. Additionally, the bluffs project will likely be subject to review under the Coastal Zone Management Act Federal Consistency Review by the Commission. NCTD has argued that these projects should not be subjected to review under these state and federal coastal management law processes because of the preemption provision in the ICC Termination Act at 49 U.S.C. § 10501(b), as set forth in the Petition.

Moreover, the Commission was served by email by NCTD on the day of filing of the Petition and has had twenty days to reply. NCTD also served the Commission by UPS showing receipt on

September 1 which is attached hereto. NCTD asserts that this time is adequate for the Commission to have completed its reply herein.

Because these projects are fast approaching, NCTD feels time is of the essence, and this proceeding should not be delayed. Therefore, NCTD respectfully requests that the Board reject this request for an extension by the Commission.

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/s/ Daniel Elliott  
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Counsel for NCTD

September 18, 2020

### **CERTIFICATE OF SERVICE**

In accordance with 49 C.F.R. § 1104.12, I hereby certify that on September 18, 2020, I served a copy of this Reply in Opposition to Request for Extension on counsel known to represent the City of Del Mar and the California Coastal Commission by first-class mail or the most expedient method as follows:

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/s/Daniel R. Elliott

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