

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

301107

ENTERED
Office of Proceedings
September 22, 2020
Part of
Public Record

Finance Docket No. 36433

NORTH COUNTY TRANSIT DISTRICT
VERIFIED PETITION FOR DECLARATORY ORDER

REPLY IN OPPOSITION TO REQUEST FOR EXTENSION

The North County Transit District (“NCTD”) respectfully opposes the 20-day extension request by the Surfrider Foundation San Diego County Chapter (“Surfrider”) 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 California Coastal 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 California Coastal 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, while Surfrider was not served with the Petition because NCTD was unaware of its interest in this proceeding due to its participation in a prior California Coastal Commission hearing,

NCTD asserts that the twenty-day reply period is still an adequate amount of time for Surfrider to have completed its reply herein as the Petition was posted on the Surface Transportation Board website.

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 Surfrider.

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September 22, 2020

CERTIFICATE OF SERVICE

In accordance with 49 C.F.R. § 1104.12, I hereby certify that on September 22, 2020, I served a copy of this Reply in Opposition to Request for Extension on counsel known to represent the parties of record by the most expedient method as follows:

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