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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
January 19, 2022
Part of
Public Record

FD 36433

**NORTH COUNTY TRANSIT DISTRICT –
PETITION FOR DECLARATORY ORDER**

**CALIFORNIA COASTAL COMMISSION'S REQUEST FOR
MEDIATION; DECLARATION OF JAMEE JORDAN PATTERSON IN
SUPPORT THEREOF**

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January 18, 2021

REQUEST FOR MEDIATION

The California Coastal Commission respectfully requests the Board direct the parties in this petition to participation in mediation pursuant to the procedures under 49 CFR section 1109.1 et seq. Though this petition is not a rate case, to which mediation is mandatory, the parties have made substantial progress in informally resolving its differences regarding petitioner North Coast Transit District's fencing project while this matter was in abeyance. See Patterson Declaration, attached below.

Board-sponsored mediation could help the parties to resolve their differences without need for further proceedings before the Board, or at the very least, help narrow down the issues presented in this petition. While this matter was in abeyance, NCTD has demonstrated a willingness to modify its original fencing plans to satisfy the concerns of the Commission and other stakeholders. Alternatively, should mediation not commence, the Commission anticipates significant discovery issues that will likely require the Board's attention.

Dated: January 18, 2022

Respectfully submitted,

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s/Jamee Jordan Patterson
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Commission*

**DECLARATION OF JAMEE JORDAN PATTERSON IN
SUPPORT OF THE CALIFORNIA COASTAL
COMMISSION'S REQUEST FOR MEDIATION**

I, Jamee Jordan Patterson, declare as follows:

1. I am a Supervising Deputy Attorney General for the State of California and one of the attorneys representing the California Coastal Commission in this proceeding. The matters stated in this declaration are personally known to me and if called as a witness I could and would testify competently to them.

2. Since this Board issued its order holding this matter in abeyance to allow the Commission, City of Del Mar and North County Transit District (NCTD) to discuss settlement, the parties have been discussing alternative options for the fencing originally proposed by NCTD.

3. In October 2021, NCTD posted an update on its official website describing the modifications that were under discussion. NCTD posted a Del Mar Bluffs Visual Study dated October 5, 2021, that depicts alternate types and locations of fencing, identified as the Modified Plan. I personally viewed the Study on the official NCTD website on December 30, 2021.

<https://gonctd.com/wp-content/uploads/2021/10/NCTD-Visual-Sim-Oct-14-Full-Screen-Simulations.pdf>

4. NCTD also posted a document dated October 15, 2021, that describes the work done so far to resolve the parties' differences and the modified fencing plan that reduces the length of the fence and modifies the height and type of fencing. I personally viewed the document on the official NCTD website on December 30, 2021.

5. Based on the documents NCTD posted on its website, the Commission believed the parties were making substantial progress despite the limitations on meeting in person due to the COVID-19 pandemic and restrictions on the parties' staff limiting travel and working in the office. The Commission was surprised when NCTD filed its status report asking this Board to lift the stay in abeyance and to take action on its petition.

6. Given the progress the parties made prior to NCTD's status report, the Commission believes that the assistance of a mediator could help the parties to resolve their differences without further need of review and action by this Board, particularly given that NCTD has shown a willingness to modify its fencing plan both in scope and design.

7. Absent mediation, the Commission is compelled to commence with protracted discovery seeking documentation crucial to adjudicating this dispute, including the exact boundaries of NCTD's applicable right of way, and the funding sources for NCTD's project. These issues are central to determining the issues before this Board, including whether the Commission has federal consistency jurisdiction to review the project for consistency with California's federally-certified coastal management plan.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 18th day of January, 2022, at San Diego, California



Jamee Jordan Patterson, Declarant

CERTIFICATE OF SERVICE

In accordance with 49 C.F.R. § 1104.12, I hereby certify that on January 19, 2022, I served a copy of this **CALIFORNIA COASTAL COMMISSION'S REQUEST FOR MEDIATION; DECLARATION OF JAMEE JORDAN PATTERSON IN SUPPORT THEREOF** on all parties of record by first-class mail and email as follows:

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