

Jeffrey G Sturgis, Trustee
150 6th Street
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301152

Via E-Mail

10/5/2020

Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street SW
Washington DC 20423

ENTERED
Office of Proceedings
October 5, 2020
Part of
Public Record

Re: Docket No. FD 36433 – Petition for Declaratory Relief

Dear Ms. Brown,

I am writing on behalf the Sturgis family, which owns the homes located at 101 and 107 11th Street in Del Mar California (“Sturgis Properties”)¹, to lend my support to the positions asserted by the California Coastal Commission and City of Del Mar and urge that the Surface Transportation Board not grant NCTD’s request for a wholesale exemption from state and local regulation of its rail right-of-way. The Sturgis family has a unique perspective and interest in this issue because the Sturgis Properties are located at the west end of 11th street, and the 101 11th street parcel includes a portion of the rail right-of-way. The Sturgis family has owned the properties since 1943.

The rail right-of-way has operated for more than 100 years without the complete exclusion from state and local regulation that NCTD is asking the Board to grant today. Viewed from this perspective, it is clear NCTD’s request is one of convenience and not necessity. The rail right-of-way is operational today and work to protect the bluffs in Del Mar is underway. There is no jurisdiction seeking to stop this crucial work. The key issues in debate concern mitigation for the impacts caused by the work to stabilize the bluffs and NCTD’s desire to completely wall off the rail right-of-way with fencing. We appreciate that NCTD may disagree with the Coastal Commission and City of Del Mar on these issues, but that disagreement alone does not warrant a finding of federal preemption because the debate on these collateral issues is not preventing or interfering with the continued operation of the rail right-of-way.

Questions of mitigation to address the visual impacts of massive construction along the coastal bluffs are legitimate issues under both state and federal laws, such the California Coastal Act (California Public Resources Code Section 30000 et seq.) and the Federal Coastal Zone Management Act (16 USC 1451 et seq.) The question of fencing the rail right-of-way is a

¹ The properties are held in two family trusts for which I am trustee.

uniquely local issue that does not fit into a one size fits all category as evidenced by the varied fencing solutions along rail corridors throughout the state and country. In addition, local access to and from the ocean is an important right that must be balanced with NCTD's desire to wall off its rail right-of-way. Del Mar and its residents have a right to seek access across the corridor by way of at grade crossing or other alternatives to ameliorate the impact of increased barriers. This is a particularly important issue to the Sturgis family because title to their properties extends into the rail right-of-way.

For these reasons, I respectfully ask that the Board not approve NCTD's request for a complete exemption from state and local regulation with regard to its use and maintenance of the railroad right-of-way.

Sincerely,

A handwritten signature in dark ink, appearing to be 'JG Sturgis', with a large, stylized 'S' and 'G'.

Jeffrey G. Sturgis, Trustee

CERTIFICATE OF SERVICE

On October 5, 2020, I served a copy of this letter via e-mail on the following counsel known to represent the parties of record:

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Executed in Solana Beach California on October 5, 2020

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