

303466

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
December 30, 2021
Part of
Public Record

Finance Docket No. 36433

NORTH COUNTY TRANSIT DISTRICT -
PETITION FOR DECLARATORY ORDER

STATUS UPDATE

Daniel R. Elliott
GKG Law, P.C.
1055 Thomas Jefferson St., NW
Suite 500
Washington, DC 20007
(703) 863-9670
delliott@gkglaw.com

Attorney for North County Transit
District

December 30, 2021

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36433

NORTH COUNTY TRANSIT DISTRICT -
PETITION FOR DECLARATORY ORDER

STATUS UPDATE

North County Transit District (“NCTD”) respectfully submits its Status Update pursuant to the Surface Transportation Board (“STB”) order served on April 7, 2021 and moves the STB to lift the order holding this proceeding in abeyance and to place this proceeding in active status. Because the railroad projects at issue will begin soon, specifically, NCTD staff was instructed by the Board of Directors to bring a fencing project to the January 2022 Board meeting for consideration of approval and the Phase 5 stabilization project located on the Del Mar Bluffs is in final design with an anticipated contract award in 2022, NCTD requests that the Board expedite this proceeding to ensure the parties understand their obligations under the applicable laws.

On August 28, 2020, NCTD filed a petition for declaratory order relating to certain actions of the City of Del Mar, Cal. (“City”) and the California Coastal Commission (“Commission”) regarding NCTD’s rail line maintenance and other upgrading activities in its rail right-of-way. Numerous filings were received in response to the petition. On November 6, 2020, NCTD filed a motion to hold this proceeding in abeyance, stating that it recently had

constructive discussions with the City and the Commission and that those three parties agreed that they should engage in further discussions to attempt to resolve the matters at issue. The Board granted NCTD's unopposed request and held this proceeding in abeyance until March 30, 2021 and directed NCTD to file a status update by that date. On March 29, 2021, NCTD filed a status report, stating that it, the City, and the Commission had engaged in further constructive discussions and that the parties had agreed that settlement discussions should continue. (NCTD Status Report 2-3.) As such, NCTD, with the concurrence of the City and the Commission, requested that the Board continue to hold this matter in abeyance until December 31, 2021. (*Id.* at 1, 3.) The Board stated that it favors the private resolution of disputes whenever possible and granted the request, continuing to hold this matter in abeyance until December 31, 2021. The Board directed NCTD to file a status update by December 31, 2021.

Despite significant efforts by NCTD to address the parties' concerns, negotiations have not been successful. As a result, NCTD sees no choice but to proceed with this matter in an expedited manner to resolve the disputes at issue.

Respectfully submitted,

/s/ Daniel R. Elliott

Daniel R. Elliott
GKG Law, P.C.
1055 Thomas Jefferson St., NW
Suite 500
Washington, DC 20007
(202) 342-5248
delliott@gkglaw.com

Attorney for North County Transit District

Dated: December 30, 2021

Certificate of Service

I certify that I have, this 30th day of December 2021, served by email copies of the foregoing document on all parties of record in this proceeding.

/s/ Daniel R Elliott
Daniel R. Elliott
Attorney for North County Transit District