

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35929

PENINSULA CORRIDOR JOINT POWERS BOARD—PETITION FOR
DECLARATORY ORDER

Decided: May 29, 2015

By petition filed on May 19, 2015, the Peninsula Corridor Joint Powers Board (Caltrain), operator of the Caltrain commuter rail service between San Jose and San Francisco, Cal., seeks a declaratory order confirming that the requirements of the California Environmental Quality Act (CEQA), as applied to Caltrain, are fully preempted by virtue of 49 U.S.C. § 10501(b). Caltrain states that it is a rail carrier subject to the Board's jurisdiction¹ and seeks to install electrical lines over its rail line, a project known as the Peninsula Corridor Electrification Project. Caltrain states that a local city and two interest groups have filed lawsuits against Caltrain in state court, challenging Caltrain's compliance with CEQA. Caltrain argues that the improvements to its rail line and facilities are under the Board's exclusive jurisdiction and that 49 U.S.C. § 10501(b) preempts the application of CEQA.

Caltrain has requested that the Board issue an expedited declaratory order by June 30, 2015. Caltrain states that a Board order regarding preemption of CEQA issued prior to that date would eliminate controversy in advance of its initial state court appearance. To facilitate expedited consideration, Caltrain states that it has served a copy of its petition on all counsel of record in the state court lawsuits.

The Board has discretionary authority under 5 U.S.C. § 554(e) and 49 U.S.C. § 721 to issue a declaratory order to eliminate a controversy or remove uncertainty. Here, it is appropriate to institute a declaratory order proceeding so that the Board can consider the issue raised in Caltrain's petition regarding whether § 10501(b) would preempt CEQA, as applied to Caltrain and its electrification project. The Board will therefore institute a proceeding to consider the matter. Interested persons may file substantive replies to Caltrain's petition by June 8, 2015.

It is ordered:

1. A declaratory order proceeding is instituted.

¹ Caltrain and its managing agency, the San Mateo County Transit District, acquired the line from Southern Pacific Transportation Company in 1992. Peninsula Corridor Joint Powers Bd.—Acquis. Exemption—S. Pac. Transp. Co., FD 31980 (ICC served Jan. 17, 1992).

2. Interested persons may file substantive replies to Caltrain's petition by June 8, 2015.
3. Notice of the Board's action will be published in the Federal Register.
4. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.