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SEC

SERVICE DATE - DECEMBER 21, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34111

NORTH SAN DIEGO COUNTY TRANSIT DEVELOPMENT BOARD—
PETITION FOR DECLARATORY ORDER

Decided: December 20, 2001

By petition filed on December 18, 2001, the Orange County Transportation Authority (OCTA) requests leave to intervene in this proceeding in which the North San Diego County Transit Development Board, d/b/a North County Transit District (NCTD), requests the Board to institute a declaratory order proceeding and to determine that the City of Encinitas, CA, is prohibited from requiring NCTD to obtain a permit prior to constructing the Encinitas Passing Track on its San Diego Subdivision main track. Accompanying OCTA's petition for leave to intervene are comments of OCTA requesting that we issue the declaratory order requested by NCTD.

In support of its petition, OCTA states that it has a direct interest in the outcome of this proceeding. It states that it acquired a contiguous line segment in the same transaction in which NCTD acquired its main track, that this line is similarly used in interstate freight and passenger operations, and that it faces the same risk of local and state government interference with its use and management of its own line as NCTD. Therefore, it states that the issues it will address are the same as those raised by NCTD, and it supports NCTD's requested relief.

This petition for leave to intervene will be granted. OCTA is a public body with a legitimate interest in this case. Its participation will not unduly delay the proceeding nor burden the record; nor will its participation prejudice the interests of any other party. Replies to the comments accompanying this petition will be due 20 days from the date of service of this decision.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. OCTA's request for leave to intervene is granted.
2. Replies to the comments accompanying this petition are due by January 10, 2002.

3. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary