

Resolution Number 2019-XXX

North Coast Railroad Authority

Dated: April 10, 2019

A RESOLUTION OF THE NORTH COAST RAILROAD AUTHORITY TO DECERTIFY ITS CERTIFICATION OF THE ENVIRONMENTAL IMPACT REPORT CERTIFIED BY RESOLUTION NO. 2011-02

WHEREAS, on or about June 20, 2011, the North Coast Railroad Authority ("NCRA") adopted Resolution No. 2011-02, certifying the environmental impact report regarding the "resumption of freight rail operations on a section of an existing railroad line from Willits to Lombard, CA" (the "EIR"); and

WHEREAS, on or about July 20, 2011, Californians for Alternatives to Toxics ("CATS") filed an action against NCRA, naming Northwestern Pacific Railroad Company ("NWPCo") as a real party in interest, Marin County Superior Court Case No. CIV 1103591, alleging that the EIR was defective and seeking, inter alia, to enjoin NWPCo's railroad operations and decertify the EIR; and

WHEREAS, on or about July 20, 2011, Friends of the Eel River ("FOER") filed an action against NCRA, naming NWPCo as a real party in interest, Marin County Superior Court Case No. CIV 1103605, alleging that the EIR was defective and seeking, inter alia, to enjoin NWPCo's railroad operations and decertify the EIR; and

WHEREAS, on April 10, 2013, NCRA adopted Resolution No. 2013-04, rescinding in part Resolution No. 2011-12; and

WHEREAS, on July 27, 2017, the Supreme Court of California determined certain jurisdictional issues with respect to the application of the California Environmental Quality Act ("CEQA") to NCRA, NWPCo, and the project with respect to which the EIR was prepared; and

WHEREAS, on or about August 22, 2018, subsequent to the Supreme Court of California's determination, the Marin County Superior Court dismissed NWPCo as a party to both Case No. CIV 1103591 and Case No. CIV 1103605; and

WHEREAS, on or about December 21, 2018, the Marin County Superior Court granted an interim fee award against NCRA and in favor of CATS in Case No. CIV 1103591 and against NCRA and in favor of FOER in Case No. CIV 1103605; and

WHEREAS, NCRA, CATS and FOER have entered into an agreement to settle the above-described lawsuits, under the terms of which NCRA shall consider and adopt a resolution decertifying the EIR as a condition of the effectiveness of the settlement agreement;

NOW THEREFOR, BE IT RESOLVED:

That NCRA hereby decertifies the EIR, which was certified by Resolution No. 2011-02.

Director Marks: _____

Director Fennell: _____

Director Kelley: _____

Director Hart: _____

Director Hagele: _____

Director Peters: _____

Director Breen: _____

Director McCowen: _____

Director Haschak: _____

Ayes: _____

Noes: _____

Absent: _____

Abstain: _____

SO ORDERED.