

41437
DO

SERVICE DATE – MARCH 15, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35407

GNP RLY, INC.—ACQUISITION AND OPERATION EXEMPTION—REDMOND
SPUR AND WOODINVILLE SUBDIVISION

Docket No. AB 6 (Sub No. 463X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN KING
COUNTY, WASH.

Docket No. AB 6 (Sub No. 465X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN KING
COUNTY, WASH.

Decided: March 14, 2011

The request to hold in abeyance the above-docketed proceedings is denied. On August 24, 2010, GNP Rly, Inc. (GNP), a Class III rail carrier, filed a petition under 49 U.S.C. § 10502 for exemption from the provisions of 49 U.S.C. § 10902 to acquire and resume rail service over 2 segments of rail-banked railroad right-of-way (ROW) totaling 9.1 miles, consisting of: (1) a ROW extending from milepost 0.0, at Woodinville, Wash., to approximately milepost 7.30 at Redmond, Wash. (Redmond Spur); and (2) a ROW extending from milepost 23.8 to milepost 22.0, at or near Woodinville (Woodinville Subdivision).¹ In a notice served on September 15, 2010, and published in the Federal Register on September 20, 2010 (75 Fed. Reg. 57,327), the Board requested comments on GNP's request to resume rail service and partially vacate the NITUs. On February 7, 2011, GNP filed a letter with the Board requesting that these proceedings be held in abeyance for 60 days.

¹ These segments were the subjects of abandonment proceedings and notices of interim trail use (NITUs) in BNSF Railway Company—Abandonment Exemption—in King County, Wash., AB 6 (Sub-No. 463X) and BNSF Railway Company—Abandonment Exemption—in King County, Wash., AB 6 (Sub-No. 465X). GNP concurrently filed a petition to vacate the NITUs issued for these segments.

GNP states that 3 parties who are not involved in these proceedings have filed an involuntary petition to place GNP in bankruptcy. GNP states that it intends to contest that petition and, while it resolves that matter, requests that the Board holds these proceedings in abeyance. On February 15, 2011, the City of Redmond, King County, and Central Puget Sound Regional Transit Authority (Regional Governments) filed a response urging the Board to deny GNP's request.² The Regional Governments argue that the abeyance should be denied for 2 reasons: after the Chapter 11 involuntary reorganization, GNP or its successor will likely continue to pursue rail service; and the delay caused by holding the proceeding in abeyance adds uncertainty and risk to development plans for the rail-banked ROW.

Here, GNP's petition to resume rail service has generated much public interest and several rounds of comments have been submitted. GNP's abeyance request does not offer a clear timeframe or any indication that it would be able to resolve the bankruptcy petition within 60 days. Nor does GNP state a benefit of the abeyance other than to conserve Board time and resources. The Regional Governments' concerns that delaying the final decision would leave the status of its development plans uncertain are valid and overriding. GNP's request to hold these proceedings in abeyance will be denied.

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

It is ordered:

1. GNP's request to hold these proceedings in abeyance is denied.
2. This decision is effective on its service date.

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

² The Regional Governments' response included a copy of the bankruptcy petition and declarations in support of that petition by Byron Cole, the General Manager of Ballard Terminal Railroad Company, and Douglas Engle, a 50 percent shareholder and director of GNP.