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SERVICE DATE – APRIL 7, 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.

ORAL ARGUMENT

Decided: April 6, 2011

The Surface Transportation Board will hold oral argument to address issues in these proceedings on Thursday, May 12, 2011, at 9:30 a.m. in the hearing room at the Board's headquarters located at 395 E Street, S.W., Washington, DC. Two oral arguments are scheduled for this date and time. The matters in these proceedings will be argued second, following the first oral argument. Both oral arguments will be open for public observation, but only counsel for the parties will be permitted to present argument.

In Docket No. FD 35407, GNP Rly, Inc. (GNP), a Class III rail carrier, seeks to acquire the right to restore 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. and (2) a ROW extending from milepost 23.8 to milepost 22.0, at or near Woodinville.¹ GNP concurrently filed a petition to vacate the NITUs issued for these segments. In its petition, GNP states that 2 customers have requested rail service. Since the petition was

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).

filed, additional customers have submitted letters in support of GNP's proposed reactivation of rail service.

King County, Wash. (King County), the trail sponsor, the City of Redmond, and other interested persons oppose GNP's request.² The Opponents argue that there are questions regarding the financial viability of GNP to operate rail service and that GNP lacks the rights necessary to use the ROW for rail service. Because GNP does not own the ROW or have any rights to it, King County and others assert that GNP is not in the position to provide rail service. The Board will hear argument on the issues raised in the petition.

GNP will have a total of 20 minutes of argument time and the opposition will have a total of 20 minutes of argument time. GNP will open and may reserve part of its time for rebuttal if it so chooses.

By May 5, 2011, the parties shall submit to the Board the names of the counsel who will be presenting argument and the name of the party counsel will be representing. The opposition parties, if they wish to divide their 20 minutes, should indicate how much time each wishes to be allotted. GNP's filing shall also address the requested time reserved for rebuttal, if any. Absent a request from the Board, no additional written comments or other submissions may be filed in connection with this oral argument. Parties should prepare a short statement of their argument and be prepared to answer questions from the Board. The purpose of oral argument is not to restate the written arguments previously presented or to present evidence for the first time, but to summarize and emphasize the key points of a party's case, and provide an opportunity for questions that the Board may have.

A motion for protective order is currently pending, and a decision on that motion is being issued concurrently with this order. If any party knows in advance that it plans to discuss confidential information at the oral argument, the Board requests that the party notify the Board and opposing counsel by May 5, 2011.

Counsel for the parties shall check in with Board staff in the hearing room prior to the argument. Any exhibit used at the oral argument must be based on materials previously submitted as part of the record. Electronic presentations at oral argument will be treated as exhibits. Counsel shall provide a printed copy of each exhibit to opposing counsel and shall provide 9 copies, on 8 1/2 by 11 inch paper, of each exhibit to Board staff.

² Other interested persons opposing GNP's petition include: the Port of Seattle, Central Puget Sound Regional Transit Authority, BNSF Railway Company, and Rails to Trails Conservancy.

Instructions for Attendance at Hearing

The STB requests that all persons attending the hearing use the Patriots Plaza Building's main entrance at 395 E Street, S.W. (closest to the northeast corner of the intersection of 4th and E Streets). There will be no reserved seating, except for those scheduled to present comments. The building will be open to the public at 7:00 a.m., and participants are encouraged to arrive early. There is no public parking in the building.

Upon arrival, check in at the 1st floor security desk in the main lobby. Be prepared to produce valid photographic identification (driver's license or local, state, or Federal government identification); sign-in at the security desk; receive a hearing room pass (to be displayed at all times); submit to an inspection of all briefcases, handbags, etc.; then pass through a metal detector. Persons choosing to exit the building during the course of the hearing must surrender their hearing room passes to security personnel and will be subject to the above security procedures if they choose to re-enter the building. Hearing room passes likewise will be collected from those exiting the hearing upon its conclusion.

Laptops and recorders may be used in the hearing room, but no provision will be made for connecting personal computers to the Internet. Cellular telephone use is not permitted in the hearing room; cell phones may be used quietly in the corridor surrounding the hearing room, or in the building's main lobby.

The Board's hearing room complies with the Americans with Disabilities Act, and persons needing such accommodations should call (202) 245-0245, by the close of business on May 5, 2011.

A video broadcast of the oral argument will be available via the Board's website at <http://www.stb.dot.gov>, under "Information Center"/ "Webcast"/ "Live Video" on the home page.

For further information regarding the oral argument, contact Amy Ziehm at (202) 245-0391. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877-8339.

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

It is ordered:

1. Oral argument in these proceedings will be held on Thursday, May 12, 2011, at 9:30 a.m., in the Surface Transportation Board Hearing Room, at 395 E Street, S.W., Washington, DC, as described above.

2. By May 5, 2011, the parties shall submit to the Board the names of the counsel who will be presenting argument, the names of the parties counsel will be representing, and the requested time reserved for rebuttal if the party is the petitioner.

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

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