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SERVICE DATE – SEPTEMBER 15, 2010

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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35407]

GNP Rly, Inc. — Acquisition and Operation Exemption — Redmond Spur and
Woodinville Subdivision

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption, request for comments.

SUMMARY: 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 railbanked 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 The petition for exemption was filed concurrently with GNP's petition to vacate in part the NITUs issued for the Redmond Spur and a longer segment of the Woodinville Subdivision (extending from milepost 23.8 to milepost 11.25). Those NITUs permitted railbanking/interim trail use negotiations

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).

under the Trails Act, 16 U.S.C. § 1247(d). The Board seeks comments from interested persons on GNP's request to resume rail service and partially vacate the NITUs.

DATES: Written comments must be filed with the Board by October 20, 2010. Replies must be filed by November 19, 2010.

ADDRESSES: Comments may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board's website, at <http://www.stb.dot.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. FD 35407, 395 E Street, S.W., Washington, DC 20423-0001.

In addition, send one copy of any comments to: (1) John Heffner, 1750 K Street, N.W., Suite 200, Washington, DC 20006; (2) Charles A. Spitulnik, Kaplan Kirsch & Rockwell LLP, 1001 Connecticut Avenue, N.W., Suite 800, Washington, DC 20036; (3) Craig Watson, Port of Seattle, Pier 69, P.O. Box 1209, Seattle, WA 98111; and (4) Kristy Clark, BNSF Railway Company, 2500 Lou Menk Drive, AOB-3, Fort Worth, TX 76131.

FOR FURTHER INFORMATION CONTACT: Julia Farr at 202-245-0359. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: On August 24, 2010, GNP filed a petition under 49 U.S.C. § 10502 for exemption from the provisions of 49 U.S.C. § 10902 to acquire the "residual common carrier rights and obligations," including the right to reinstate rail service over the Redmond Spur and a portion of the Woodinville Subdivision. These

segments are currently subject to an interim trail use agreement between BNSF Railway Company (BNSF) and King County, a political subdivision of the State of Washington. The Port of Seattle (Port) owns the real estate associated with the lines, which it acquired from BNSF.² In King County, Wash.–Acquisition Exemption–BNSF Railway Company, FD 35148 (STB served Sept. 18, 2009), the Board granted the request by King County for exemption from 49 U.S.C. § 10901 to acquire BNSF’s rights and obligations, including the right to reinstate rail service in the future.

GNP’s petition presents this issue: under what circumstances will the Board grant a carrier’s request to vacate a NITU to permit reactivation of rail service, when the petitioning carrier does not own or have any other interest in the ROW. An interim trail use arrangement is subject to being cut off at any time by the reinstatement of service. Here, the abandoning railroad (BNSF) has transferred its rights and obligations, including the right to reinstate rail service, to King County (the trail sponsor), and a different carrier, GNP, seeks to reinstate service.

GNP states that 2 customers have requested service: Drywall Distributors, a supplier of drywall products, which anticipates receiving 40 carloads per year; and Building Specialties, a distributor of building products, located in the industrial park formerly served by BNSF, which also anticipates receiving 40 carloads per year. GNP includes a statement in support of its petition from Wallace/Knutsen L.L.C., owner of the industrial park located on the Redmond Spur. In anticipation of reactivation of rail service on the Redmond Spur, Wallace/Knutsen L.L.C. has leased to GNP an unused rail spur that crosses the industrial park and connects to the Redmond Spur.

² The Port of Seattle–Acquis. Exemption–Certain Assets of BNSF Ry., FD 35128 (STB served June 20, 2008).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by June 15, 2011.

Decided: September 14, 2010.

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