



October 30, 2014

236936

Via Electronic Filing

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20423

ENTERED
Office of Proceedings
October 30, 2014
Part of
Public Record

RE: STB Finance Docket No. 35812, Central Puget Sound Regional Transit Authority—Acquisition Exemption—Certain Assets of City of Tacoma in Pierce County, Wash.

Dear Ms. Brown:

We represent the Central Puget Sound Regional Transit Authority (“Sound Transit”) in this proceeding.¹ As discussed below, we respectfully request that this Board issue a correction to the Decision it served in this matter on October 27, 2014 (the “Decision”), granting Sound Transit’s requested Motion to Dismiss its Notice of Exemption for the proposed acquisition of the real property associated with a one-mile segment of track (the “Tacoma Dome Segment” or “Segment”) from the City of Tacoma (the “City”).

As Sound Transit described in detail and this Board acknowledged in granting Sound Transit’s Motion, Sound Transit is solely acquiring the real property and physical assets associated with the Segment, while the City, d/b/a Tacoma Rail, will retain all common carrier rights and obligations for the Segment, consistent with the Board’s decision in *State of Maine, DOT – Acquisition and Operation Exemption – Maine Central R. Co.*, 8 I.C.C. 2d 835 (1991). Accordingly, Sound Transit will take title to the real property underlying the Segment and will be the legal owner of the line, while the City will hold operating rights through an easement, but will retain no possessory real property interest in the Segment.

However, the Board’s Decision characterizes the City’s interest following the proposed transfer as “ownership of the line [that] remains with the selling carrier for purposes of [49

¹ Service of previous pleadings to two of the entities listed on the Certificate of Service, Boeing Commercial Airplane and PN Best, was returned as undeliverable. We have been unable, through reasonably diligent efforts, to locate alternative means of contacting these businesses. We are attempting service again, but note the previous failure of service for the record.

Ms. Cynthia T. Brown
October 30, 2014
Page 2

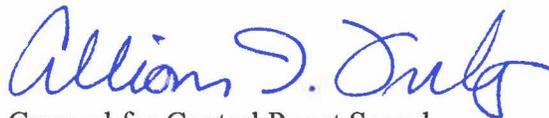
U.S.C.] § 10901(a)(4).” *Central Puget Sound Regional Transit Authority – Acquisition Exemption – Certain Assets of City of Tacoma in Pierce County, WA*, Docket No. FD 35812 (Service Date Oct. 27, 2014), slip op. at 2 (emphasis added).

By referring to the City’s continued interest as “ownership” of the line, even if such characterization is limited to the application of 49 U.S.C. § 10901(a)(4), the Board’s Decision implies that the City will retain some possessory interest in the real property associated with the Segment. This will not be the case. The City will retain the common carrier operating right and obligation, which it will exercise through an exclusive, permanent freight easement. *Central Puget Sound Regional Transit Authority – Acquisition Exemption – Certain Assets of City of Tacoma in Pierce County, WA*, Docket No. FD 35812, Central Puget Sound Regional Transit Authority, Motion to Dismiss at 2 (Filed Apr. 15, 2014). As Sound Transit explained in its Motion to Dismiss, this conveyance of ownership by the City to Sound Transit while retaining only an easement for freight operating purposes is consistent with the Board’s decisions in the *State of Maine* line of cases. These have typically clearly distinguished the rights being conveyed from those being maintained in this family of transactions. *E.g.*, “[o]ur authorization is not required . . . when only the physical assets will be conveyed and the common carrier rights and obligations to the line will not be transferred.” *Utah Transit Authority – Acquisition Exemption – Certain Assets of Union Pacific R. Co.*, STB Finance Docket No. 34170, slip op. at 2 (Service Date May 22, 2002) (citing *State of Maine*).

In order to accurately describe the nature of the interests that are the subject of the proposed transaction, Sound Transit respectfully requests that the Board issue a corrected decision to specify that the City will retain the common carrier obligation and will obtain an exclusive, permanent freight easement to allow it to fulfill its duties and exercise its rights as a common carrier, but that Sound Transit will be the owner of the real property interests associated with the Segment.

Thank you for your attention to this matter.

Sincerely,



Counsel for Central Puget Sound
Regional Transit Authority

cc: All Parties of Record

Certificate of Service

I hereby certify that I have this day caused a copy of the foregoing Letter of the Central Puget Sound Regional Transit Authority to be served by first class mail, properly addressed and with postage prepaid, or otherwise by e-mail, upon the following:

City of Tacoma
c/o Real Property Services
3628 South 35th Street
Tacoma, WA 98409

Tacoma Rail
2601 SR 509 N Frontage Road
Tacoma, WA 98421

Tacoma Rail Mountain Division (TRMW) Freight Customers

Customer: Baker Commodities
Contact: Julie Liedahl
Contact Phone: (323) 268-2801 x 3206
jlitedahl@bakercommodities.com

Facility Address: 18119 50th Ave. East
Tacoma, WA 98446

Customer: Boeing Commercial Airplane
Contact: Sue Harber
Contact Phone: (425) 965-4360
Contact E-mail: ssgreclamation@boeing.com

Facility Address: 6002 184th St. East
Puyallup, WA 98373

Customer: Farwest Fabrication
Contact: Bill Crites
Contact Phone: (253) 847-2800
Contact E-mail: Bill@farwestfab.com

Facility Address: 5521 184th Street East
Puyallup, WA 98375

Customer: **Grain Craft**
Contact: Chase Faler
Contact Phone: (208) 785-2800 x 12
Contact E-mail: cfaler@graincraft.com

Facility Address: 463 W. Highway 26
Blackfoot, ID 83221

Customer: **James Hardie Building Products**
Contact: Tommy Green
Contact Phone: (253) 875-2346
Contact E-mail: tommy.green@jameshardie.com

Facility Address: 18200 50th Ave. East
Puyallup, WA 98446

Customer: **Harris Rebar**
Contact: Todd Weishaupt
Contact Phone: (253) 847-5001
Contact E-mail: tweishaupt@harrisrebar.com

Facility Address: 4421 192nd St. East
Tacoma, WA 98446

Customer: **Hunter Panels Inc.**
Contact: Mark Johnson
Contact Phone: (253) 271-3222
Contact E-mail: mark.johnson@syntec.carlisle.com

Facility Address: 19727 57th Ave. East
Puyallup, WA 98375

Customer: **Medallion Foods**
Contact: Marcello Mancini
Contact Phone: (253) 846-2600 x 103
Contact E-mail: marcello@medallionpasta.com

Facility Address: 18420 50th Ave East
Tacoma, WA 98446

Customer: **Pacific Steel & Recycling**
Contact: Jason Heath
Contact Phone: (253) 846-2640
Contact E-mail: jason.heath@pacific-recycling.com

Facility Address: 18727 38th Ave. East
Tacoma, WA 98446

Customer: Parr Lumber Company

Contact: Mike Kruse
Contact Phone: (253) 875-8005
Contact E-mail: michaelk@parr.com

Facility Address: 5301 184th St. East
Tacoma, WA 98446

Customer: Plastic Express

Contact: Erik Gabrielson
Contact Phone: (253) 209-7448
Contact E-mail: erik.gabrielson@plasticexpress.com

Facility Address: 4200 Industry Dr. East Suite-A
Fife, WA 98424

Customer: PN Best

Contact: Paul Best
Contact Phone: (425) 882-1000
Contact E-mail: PNBESTCO@aol.com

Facility Address: 5501184th St. East
Puyallup, WA 98375

Customer: Sygnet Rail Technologies

Contact: Dave Swanson
Contact Phone: (360) 264-8211
Contact E-mail: dswanson@sygnetrail.com

Facility Address: 5915 Waldrick Road S.E.
Tenino, WA 98589

Customer: T. E. Walrath Trucking

Contact: Tom Walrath Jr.
Contact Phone: (253) 531-7499 x105
Contact E-mail: tom@tewalrath.com

Facility Address: 11405 24th Ave. East
Tacoma, WA 98445

Customer: Tacoma Steel

Contact: Dan Gadsden
Contact Phone: (253) 272-2266
Contact E-mail: dg@tacomasteel.com

Facility Address: 701 East 64th St.
Tacoma, WA 98404

Tacoma Rail Mountain Division (TRMW) Storage Customers

Customer: BNSF Railway
Contact: David Longsworth
Contact Phone: (817) 867-6423
Contact E-mail: david.longsworth@bnsf.com

Facility Address: 2650 Lou Menk Drive 1st Floor
Fort Worth, TX 76131-2830

Customer: First Union Rail
Contact: Cindy Roberts/Jackie
Contact Phone: (847) 384-5313
Contact E-mail: cindy.roberts@wellsfargo.com or
jacqueline.gallo@wellsfargo.com

Facility Address: 6250 River Road, Ste. 5000
Rosemont, IL 60018

Customer: Greenbrier Leasing
Contact: Melanie Charles
Contact Phone: (503) 670-3111
Contact E-mail: melanie.charles@gbrx.com

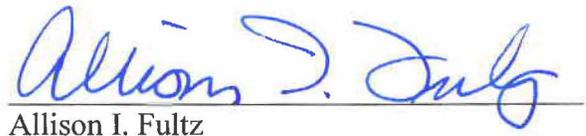
Facility Address: One Center Pointe Dr., Ste. 400
Lake Oswego, OR 97035

Customer: TEXPAR Energy LLC
Contact: Margie Desmond
Contact Phone: (608) 779-6535
Contact E-mail: margie.desmond@texpar.com

Facility Address: 920 10th Avenue North
Onalaska, WI 54650

Customer: Westran Services
Contact: Mike Peters/Hugh
Contact Phone: (604) 520-6366 (Mike)
Contact E-mail: mike@westran.com/hugh@westran.com

Facility Address: P.O. Box 412
Custer, WA 98240


Allison I. Fultz

Dated: October 30, 2014