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

**Re: *STB Docket No. AB 6 (Sub-No. 490X), BNSF Railway Company –
Abandonment Exemption – in King County, Washington***

Dear Ms. Brown:

Enclosed for filing is the Supplemental Information requested by the Board in a decision served December 3, 2015.

If you have any questions, please call me.

Sincerely,



Karl Morell

Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

BNSF RAILWAY COMPANY)	
ABANDONMENT EXEMPTION)	DOCKET NO. AB 6
IN KING COUNTY, WASHINGTON)	(SUB-NO. 490X)

SUPPLEMENTAL INFORMATION

BNSF RAILWAY COMPANY
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Dated: December 16, 2015

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

BNSF RAILWAY COMPANY)	
ABANDONMENT EXEMPTION)	DOCKET NO. AB 6
IN KING COUNTY, WASHINGTON)	(SUB-NO. 490X)

SUPPLEMENTAL INFORMATION

On July 30, 2015, BNSF Railway Company ("**BNSF**") filed its Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 to abandon 1,100 linear feet of rail line located between Milepost 4.53 and Engineering Station 258+07 (end of line) in Seattle, King County, Washington (the "**Line**"). On September 8, 2015, the City of Seattle ("City") filed a motion to reopen asserting that the location of Milepost 4.53 is unclear. The City further asserts that a portion of the Line may consist of an industry track which, if still in use, would preclude BNSF from using the class exemption to abandon the Line.

By decision served December 3, 2015, in this proceeding, the Surface Transportation Board ("Board") ordered BNSF to file the following supplemental information:

(1) A description and any maps that would clarify the beginning and endpoint of the Line.

Attached as Exhibit 1 is an updated map which demonstrates, among other things, the beginning and endpoint of the Line. As the attached map and BNSF's filings in this proceeding demonstrate, the endpoint of the proposed abandonment is Engineering Station

258+07. This is the same location as the starting point of BNSF's abandonment in STB Docket No. AB 6 (Sub-No. 402X), *The Burlington Northern and Santa Fe Railway Company -- Abandonment Exemption – In King County, WA* (not printed) served February 14, 2003, a proceeding in which the City participated. The fact that Milepost 4.53 is the beginning location of the abandonment does not appear to be in dispute. The City, however, has questioned the precise location of Milepost 4.53. BNSF has notified the City's attorney, orally and via e-mail, that Milepost 4.53 is located on the western border of 13th Avenue West. *See* Exhibit 1.

(2) A statement describing how the sidetrack referred to by the City relates to the Line, if at all.

The so-called "sidetrack" is an industry track illustrated in blue on Exhibit 1. The industry track runs north of and parallel to the Line and connects with BNSF's mainline slightly west of 15th Avenue West. The industry track is located on BNSF right-of-way but is owned and largely operated by Coastal Transportation, Inc. ("Coastal"). BNSF does not serve Coastal via the Line. Rather, BNSF provides service to Coastal from its mainline west of the Line via the mainline connection with the industry track west of 15th Avenue West. Consequently, any operations and service on the industry track do not involve the Line.

(3) A statement as to whether there is an industry track agreement that relates to the Line.

On November 23, 2011, BNSF and Coastal entered into an Industry Track Agreement that relates to Coastal's industry track. The 2011 Industry Track Agreement does not address BNSF's lack of operations over the Line nor does it restrict BNSF's ability to pursue abandonment of the Line.

(4) *A statement as to whether BNSF is, or has been, providing service pursuant to an industry track agreement.*

The 2011 Industry Track Agreement grants BNSF a license to operate over Coastal's industry track. Given the track configurations of BNSF's mainline to the west of the Line and Coastal's industry track, for operational reasons, BNSF pushes cars destined to Coastal's facility onto the industry track. BNSF's service to Coastal and any BNSF operations over Coastal's industry track are unaffected by the abandonment of the Line. BNSF does not serve Coastal via the Line. Consequently, any BNSF operations over Coastal's industry track during the past two years do not disqualify BNSF from using the class exemption to abandon the Line.¹

The City's attorney makes the factually inaccurate statement that a portion of the line proposed for abandonment (i.e., the industry track) "remains in use for a customer per a track agreement." Motion to Reopen at 3. BNSF may not abandon the industry track because it is owned by Coastal and not BNSF. If the industry track were owned by BNSF, which it is not, the abandonment of that track by BNSF would not be subject to the Board's abandonment jurisdiction. *See Battaglia Distributing Co., Inc. v. Burlington Northern*, 2 S.T.B. 323 (1997).

¹ Even if service to the industry track were provided from the Line, the Line could still be abandoned under the class exemption because traffic moving to Coastal would be overhead in nature and capable of being rerouted via BNSF's connection to the industry track west of 15th Avenue West. 49 C.F.R 1152.50(b).

In summary, the City's contention that BNSF may not use the class exemption to abandon the Line is predicated on several faulty factual assumptions, including that the industry track is owned by BNSF and that service to Coastal is performed by BNSF via the Line and the portion of the industry track located east of 13th Avenue West.

Respectfully submitted,



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Dated: December 16, 2015

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of December, 2015, I caused a copy of the foregoing

Supplemental Information to be served by first-class U.S. Mail, postage prepaid, on:

Charles H. Montange
426 NW 162d Street
Seattle, WA 98177

A handwritten signature in cursive script that reads "Karl Morell". The signature is written in black ink and is positioned above a horizontal line.

Karl Morell

South Seattle Ship Canal abandonment and industry track

