

Before the Surface Transportation Board

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Office of Proceedings  
March 3, 2016  
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Public Record**

BNSF Railway Company - )  
Abandonment Exemption - ) AB 6 (Sub.no. 490X)  
In King County, WA )

Action Requested by March 15, 2016

Fee waiver per 49 C.F.R. 1002.2(e)(1) (City of Seattle is a local government entity)

Motion for an Extension of NITU Negotiation Period

The City of Seattle ("City") moves for a 180 day extension in the negotiation period provide under the Notice of Interim Trail Use (NITU) in this proceeding served on September 17, 2015. The NITU negotiation period currently expires on March 15, 2016. The 180 day extension would expire on or about September 11, 2016. This is the first extension sought.

City is authorized to state that BNSF Railway ("BNSF"), per its counsel Mr. Morell, consents to this extension. See Appendix.

Grounds for Extension

Although the Burke-Gilman Agreements provide for "railbanking" of the right of way involved in this abandonment

**FILING FEE WAIVED**

proceeding, the parties have not yet completed development of a property description for purposes of a deed of conveyance. In addition, an adjoining shipper (Coastal) has contacted the City (and City believes BNSF) for clarifications concerning the regulatory proceeding and its relation to the shipper's service from BNSF. These clarifications may impact among other things the property description.

It is well established that a NITU extension is appropriate in circumstances such as these:

"An extension of the negotiation period will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act). The purpose of the Trails Act is to preserve rail corridors for possible reactivation of rail service by permitting and encouraging their interim use as recreational trails. See Policy Statement on Rails to Trails Conversions, Ex Part No. 274 (Sub-no. 13B) (ICC served Feb. 5, 1990).

Wisconsin Central Ltd. - Abandonment Exemption - in Brown County, WI, AB 303 (Su-no. 20X), served Oct. 10, 2006. See also Consolidated Rail Corporation - Abandonment Exemption - in St. Joseph County, IN, AB 167 (Sub-no. 1165X), served Feb. 19, 1998.

Because the current NITU negotiation period otherwise ends on March 15, 2016, City requests that the Board extend the NITU prior to that date in order to alleviate any jurisdictional issues.

By my signature below, undersigned counsel for City certifies service upon counsel for BNSF my USPS first class and by email as indicated in the "cc." on 3 March 2016.

Conclusion

For the reasons stated, the NITU negotiation period should be extended for 180 days through and including September 11, 2016.

Respectfully submitted,

S/

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(by USPS, first class, and  
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Appendix

[Karl Morell <karlm@karlmorell.com>](mailto:karlm@karlmorell.com)

To

[C. Montange](#)

CC

[Julio V. Carranza](#)

Feb 29 at 1:32 PM

BNSF consents to the extension.