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April 21, 2014

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VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

Re: **Finance Docket No. 35731**
Ballard Terminal Railroad Company, L.L.C. -- Acquisition
and Operation Exemption -- Woodinville Subdivision

Docket No. AB-6 (Sub-No. 465X)
BNSF Railway Company -- Abandonment
Exemption -- In King County, WA

Dear Ms. Brown:

Inasmuch as the Port of Seattle, Aggregates West and the City of Woodinville filed correspondence with the Board subsequent to the Reply period, Ballard Terminal Railroad and Eastside Community Rail request that they be allowed to file the attached brief letter response to that correspondence.

Respectfully submitted,



Myles L. Tobin *sm*
Attorney for Ballard Terminal
Railroad Company, L.L.C.

MLT/ekf
Enclosure (1)

cc: All Parties of Record via Email and First Class Mail



EASTSIDE COMMUNITY RAIL BRIDGING THE GAP

April 21, 2014

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

REF: STB FINANCE DOCKET NO. 35731
ACQUISITION AND EXEMPTION, WOODINVILLE SUBDIVISION

Dear Ms. Brown:

In response to the Port of Seattle's letter dated March 26th, 2014, Aggregates West letter of March 26th, 2014, and the City of Woodinville's letter of April 2nd, 2014, Eastside Community Rail, LLC (ECRR) offers these perspectives.

Ballard Terminal Railroad Company (Ballard) and ECRR appreciate the Port's acquisition of the Eastside Rail Corridor "to improve freight mobility" and their letter of support for funding with full awareness of Ballard's and ECRR's reactivation efforts for "enhancements to the corridor." Ballard is not a party to the settlement agreement. The bridge inspection is scheduled for May. Mr. Behr provides an important perspective on inland ports, and there are various sites that lend themselves to this notion, including Bellevue. We fully plan on utilizing his expertise in our decision making process along with government stakeholders.

Aggregates West Receiver misses the point, and I stand by my earlier statement entirely. The fact is their Sales Manager called Hunter Ferguson and me the morning he was kicked off the SRM job in Kirkland based on the City of Kirkland's attorney's action. The Sales Manager was very upset and wanted to know what and why this was going on. If SRM had not stepped up later that day to deny the city's attempt, it would be a different story.

Woodinville's letter has been on file with the Board in this action for a year now, with no comment or denial of their support. The mayor can show no council decision, economic study or public discussion denying widespread support for reactivation. However, very recently the city announced their agreement with the Port to buy the section we offered \$1.7M for in January, which Woodinville will now pay \$1.1M – fully 1/3 less than ECRR's offer.

Further, one of Woodinville's councilmembers is co-chair of the Eastside TRailway Alliance that supports rail and trail on the entire corridor, including the reactivation portion. Ms. Cox's marketing survey showed 80% of the Woodinville's nearly 100 wineries, including the two largest companies, Ste Michelle and Columbia (Gallo), support reactivation to Bellevue. Matheus Lumber, Spectrum Glass, Woodinville Whiskey, and other Woodinville companies' use or support freight rail.

Finally and critically, how can any railbanked corridor hope to be reactivated if the underlying fee has been immediately carved up and conveyed to so many parties? The Port simply

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wanted its money back and hoped to achieve this by parsing out segments of the corridor and selling easements effectively creating a reactivation “poison pill.” With so many “owners” over such a short distance how can any federally authorized railroad hope to reach consistent operating agreements and thrive?

ECRR owns the reserved freight easement in Woodinville and north through to the BNSF mainline in Snohomish. Railroad facilities and upgrades to the existing rail yard are needed in Woodinville and Maltby *now* to grow freight business. The land/fee must be owned by the railroad for facilities construction to obtain any financing. The Board needs to provide a clear decision that allows an operated and/or railbanked corridor to be owned by the railroad with such rights.

The Board must validate the fundamental ownership premise or doom reactivating any railbanked corridor forever. No party can be expected to serve so many masters and be successful (King Co, Sound Transit, Kirkland, Port of Seattle, Woodinville, Puget Sound Energy, Snohomish County, etc. over 26 miles).

The bottom line to this past year... there is plenty of freight opportunity that will not step forward because of Kirkland and King County’s bullying and the cost of defending their business interest. The advocating shippers are pressured and feel at risk of retribution today. If shippers cannot support reactivation, and a railroad cannot legally put the railbanked corridor back together again, then railbanking reactivation is much more a *dream* than a potential *reality*, which is not what Congress intended.

Thank you for your consideration.

Respectfully,



Douglas Engle
Manager
Eastside Community Rail, LLC