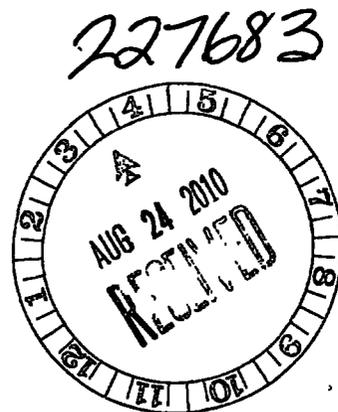


LAW OFFICES  
**JOHN D. HEFFNER, PLLC**  
1750 K STREET, N.W.  
SUITE 200  
WASHINGTON, D.C. 20006  
PH: (202) 296-3333  
FAX: (202) 296-3939



August 24, 2010

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

VIA HAND DELIVERY

ENTERED  
Office of Proceedings

AUG 24 2010

Part of  
Public Record

Re: STB Finance Docket No. 35407  
GNP Rly, Inc.—Acquisition and Operation Exemption—  
Redmond Spur and Woodinville Subdivision

STB Docket No. AB-6 (Sub. No. 463X)  
BNSF Railway Company—Abandonment Exemption—  
In King County, WA

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

**FEE RECEIVED**

AUG 24 2010

**SURFACE  
TRANSPORTATION BOARD**

**FILED**

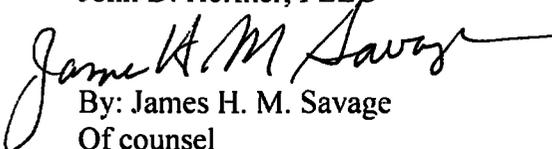
AUG 24 2010

**SURFACE  
TRANSPORTATION BOARD**

Dear Ms. Brown,

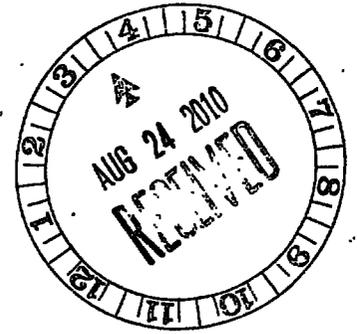
Petitioner GNP Rly, Inc. hereby submits the accompanying original and 11 copies of its Verified Petition for Exemption and Petition to Vacate NITU in the within proceeding, together with a check representing the combined filing fee of \$7,200 (broken down as follows: \$6,700 in STB Finance Docket No. 35407, \$250 in STB Docket No. AB-6 (Sub. No. 463X), and \$250 in STB Docket No. AB-6 (Sub. No. 465X). Kindly date stamp and return the 11<sup>th</sup> copy to the undersigned. A disc containing the filings in MS Word format will be supplied under separate cover.

Very truly yours,  
John D. Heffner, PLLC

  
By: James H. M. Savage  
Of counsel

**ORIGINAL**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**



**STB FINANCE DOCKET NO. 35407**

**ENTERED  
Office of Proceedings**

**AUG 24 2010**

**Part of  
Public Record**

**GNP RLY INC.  
-- ACQUISITION AND OPERATION EXEMPTION --  
REDMOND SPUR AND WOODINVILLE SUBDIVISION**

**FEE RECEIVED**

**AUG 24 2010**

**VERIFIED PETITION FOR EXEMPTION  
PURSUANT TO 49 U.S.C. 10502**

**SURFACE  
TRANSPORTATION BOARD**

**FILED**

**AUG 24 2010**

**SURFACE  
TRANSPORTATION BOARD**

Submitted By:

John D. Heffner  
John D. Heffner, PLLC  
1750 K Street, N.W.  
Suite 200  
Washington, D.C. 20006  
(202) 296-3333

Counsel for Petitioner

Dated: August 24, 2010

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**STB FINANCE DOCKET NO. 35407**

**GNP RLY INC.  
-- ACQUISITION AND OPERATION EXEMPTION --  
REDMOND SPUR AND WOODINVILLE SUBDIVISION**

**VERIFIED PETITION FOR EXEMPTION  
PURSUANT TO 49 U.S.C. 10502**

**INTRODUCTION**

Pursuant to 49 U.S.C. 10502, GNP Rly, Inc. (“GNP”), a class III common carrier by rail, seeks an exemption from the provisions of 49 U.S.C. 10902 to enable it to acquire the residual common carrier rights and obligations including the right to reinstitute rail service on two lines of railroad currently owned by the Port of Seattle in King County, WA, and designated for use as a rail trail. Additionally, GNP seeks the right to resume providing common carrier rail service over this trackage. These lines consist of the former BNSF Railway Company (“BNSF”) Redmond Spur extending between MP 0.0 at Woodinville and approximately MP 7.30 at Redmond and the former BNSF Woodinville

Subdivision extending between MP 23.8 and MP 22.0 at or near Woodinville.<sup>1</sup> GNP is filing concurrently with this Petition a Petition to Vacate Interim Trail Use in each of these two trails use cases.<sup>2</sup> GNP submits with this Petition as Exhibits A-1 and A-2 maps of the Lines as well as the Verified Statement of its Chairman and Operating Officer Thomas Payne. It also submits the verified statement of Robert C. Wallace, the developer of an industrial park along the Redmond Spur, verified letters of support from two rail customers, and photographs of the Redmond Spur. The documents are identified as Exhibits B, C, D, E, and H, respectively.<sup>3</sup>

### STATEMENT OF FACTS

This petition involves a plan by GNP to acquire the common carrier rights and obligations on and to restore active rail service over two short rail lines that have been out of service and designated for use as a trail for the past several years. Known respectively as the Redmond Spur and the Woodinville Subdivision and identified here collectively as “the Line,” these two track segments connect with a line currently operated by GNP from MP 23.8 at Woodinville northwards to Snohomish, WA. As the attached map indicates, the Redmond Spur diverges to the southeast at Woodinville before terminating at MP 7.3

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<sup>1</sup> The lines connect at MP 23.8 on the Woodinville Subdivision which is also MP 0.0 on the Redmond Spur.

<sup>2</sup> A Notice of Interim Trail Use or Abandonment (“NITU”) was issued for the Redmond Spur in BNSF Railway Company-Abandonment Exemption-in King County, WA, STB Docket No. AB-6 (Sub-No. 463X), STB served October 27, 2008 and remains in place. A similar Notice of Interim Trail Use or Abandonment (“NITU”) was issued for the Woodinville Subdivision in BNSF Railway Company-Abandonment Exemption-in King County, WA, STB Docket No. AB-6 (Sub-No. 465X), STB served November 28, 2008 and also remains in place.

<sup>3</sup> Exhibit F is the Certification of Carrier Classification and Exhibit G is the Caption Summary.

at Redmond. The short segment of the Woodinville Subdivision that GNP proposes to reactivate continues south to MP 22.0. The total distance involved here is 9.1 miles.

As background, BNSF Railway Company received an exemption in 2008 from the Board enabling it to abandon the Redmond Spur utilizing the expedited abandonment procedures of 49 CFR 1152.50 applicable to rail lines that have been out of service for at least two years. BNSF Railway Company-Abandonment Exemption -in King County, WA, cited in note 2, *supra*. Also in 2008 BNSF sought and received an individual exemption under 49 U.S.C. 10502 from the abandonment provisions of 49 U.S.C. 10903 applicable to actively used rail lines to abandon the segment of the Woodinville Subdivision from MP 23.8 south to MP 11.25 at Belleview. BNSF Railway Company-Abandonment Exemption -in King County, WA, cited in note 2, *supra*. Pursuant to those decisions, BNSF discontinued all rail service and subsequently conveyed the track and rights-of-way on both lines to the Port of Seattle (“the Port”). On September 18, 2008, King County asked the Board to issue a Notice of Interim Trail Use (“NITU”) for each of the two lines. In its letter requesting the issuance of an NITU, King County stated its willingness to accept all liabilities associated with the two lines and acknowledged that such trail use is subject to future reconstruction and reactivation of rail service. *See*, Request of King County, Washington for Interim Trail Use Pursuant to 49 CFR 1152.29 at 2. Thereafter, King County sought and received a Board exemption authorizing it to

acquire BNSF's common carrier rights and obligations including the right to restart rail service.<sup>4</sup>

As noted above, GNP is an existing STB authorized class III short line railroad common carrier.<sup>5</sup> It currently operates the contiguous trackage from Woodinville north to Snohomish under an operating easement acquired from BNSF in a *State of Maine* transaction authorized in February 2009 and consummated in December 2009. GNP attaches as Exhibit B the Verified Statement of Thomas Payne, its Chairman and Chief Operating Officer discussing how his company came to acquire the rail lines it presently operates and the company's future business plans.

Recently, a demand for rail service has developed on the Line that has prompted GNP to file these two Petitions. Mr. Payne identifies in his statement two customers that have come forward and asked GNP to serve them. One of these, Drywall Distributors, Inc., desires to use the Line to receive about 40 carloads per year of drywall products at a siding to be constructed along the Line. A second customer, Building Specialties located in the industrial park owned by Wallace/Knutsen L.L.C., formerly used BNSF service for two to five daily incoming carloads of gypsum wallboard, metal building products, and

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<sup>4</sup> King County, WA-Acquisition Exemption-BNSF Railway Company, STB Finance Docket No. 35141, STB served Sept. 18, 2009.

<sup>5</sup> See, GNP RLY Inc. – Modified Rail Certificate in Snohomish, WA, STB Finance Docket No. 35151, STB served August 13, 2008 and GNP RLY Inc. – Acquisition and Operation Exemption – BNSF Railway Company, STB Finance Docket No. 35213. STB served February 13, 2009.

ceiling components.<sup>6</sup> It plans to use the Line to receive a similar amount of traffic if GNP restores service. These customers currently use some combination of truck or truck-rail transload service to meet their transportation needs and desire to return to using all-rail service. Combined, these customers would account for about 250 cars per year of freight. Moreover, the Line is adjacent to aforementioned property owned by Wallace/Knutsen L.L.C. which has developed a rail-served industrial park. An unused rail spur currently crosses this property. Wallace/Knutsen LLC has leased this unused rail spur to GNP in anticipation of reactivation. Aside from Building Specialties, Wallace/Knutsen hopes to attract additional tenants to its property who will use GNP's rail service. Robert C. Wallace, Manager of Wallace/Knutsen, has furnished a Verified Statement appended to this notice as Exhibit C supporting GNP's request for operating authority. Although GNP has been talking with King County representatives about restoration of common carrier rail service on the Line, the parties have yet to reach an agreement.

### ARGUMENT

This Petition presents an issue of first impression: where the petitioning carrier does not own the right-of-way or have the common carrier rights to reactivate the service, whether the Board must approve a request by an authorized rail carrier to restore to active common carrier service a rail line that has been converted to trail use under the National

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<sup>6</sup> These letters are appended as Exhibits D and E.

Trails Act, 16 U.S.C. 1247(d) (“the Trails Act”) and the Board’s implementing regulations at 49 CFR 1152.29. GNP believes the Board is compelled to grant that request as a matter of precedent and Congressional intent. More specifically, GNP interprets those provisions as requiring the restoration of rail service by *any approved rail service provider* [emphasis supplied]. See, Birt v. STB, 90 F.3d 580, 583 (D.C. Cir. 1996); Iowa Power-Const. Exempt-Council Bluffs, IA, 8 I.C.C.2d 858, 866-67 (1990); and 49 CFR 1152.29, cited in Georgia Great Southern-Abandon. & Discon. Of Service-GA, 6 S.T.B. 902, 906 (2003). There the Board stated that interim trail service is subject to being cut off at any time by the reinstatement of rail service. If and when the railroad wishes to restore rail service on all or part of the property, it has the right to do so, and the trail user must step aside. Id. Although these cases do not squarely address the issue posed here, Georgia Great Southern intimates that King County cannot stand in the way of GNP’s service restoration.

Georgia Great Southern involved a petition to vacate trail use filed by the short line railroad successor to a railroad that had previously obtained abandonment authority for the subject line and was formerly a corporate affiliate of the petitioner.<sup>7</sup> The subject right-of-way had been acquired by the trail user which had demanded compensation from the railroad before it would agree to reactivation of the line. The petitioning railroad urged that neither the Trails Act nor the implementing regulations require the railroad to

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<sup>7</sup> The petition was filed by the new owner of the railroad company.

compensate the trail user as a precondition to reactivation. Upholding the railroad's right to restore service, the Board held that the trail user's position was inconsistent with the Board's limited role and lack of discretion in rail trail matters under the Trails Act. Noting that the Trails Act does not address the need for compensation to be paid by either the reactivating railroad or the trail user or provide any mechanism for setting compensation, the Board concluded that Congress intended to leave compensation matters to the parties to resolve. But the Board stated emphatically, "a satisfactory resolution of such compensation issues cannot be a precondition to restoration of rail service, as the statute gives the railroad the right to restore rail service at any time." *Id.* at 906-8.

Thus, the Board has the power to grant GNP's request for an operating authority exemption despite the fact that GNP does not own the underlying right-of-way or have the common carrier right to restart the service. That result is consistent with the general rule that railroad operating authority under the ICCTA is permissive. As the Interstate Commerce Commission has found "[t]he provisions of 49 U.S.C. 10505 [now 10502] do not require a demonstrated ability to consummate a transaction before an exemption may be granted," citing Prairie Central Ry. Co.—Acquisition & Operation, 367 I.C.C. 884, 885 (1983) (where the agency stated that the exemption's purpose is to enable the petitioner to avoid delay in obtaining Commission approval when and if the parties reach

an agreement).<sup>8</sup> Furthermore, commercial matters such as a party's contractual access rights to use a rail line are outside the Board's jurisdiction to decide. Delaware & H.R. Corp. Trackage Agreement Modification, 290 I.C.C. 103, 107 (1953) and The Burlington Northern and Santa Fe Railway Company—Acquisition and Operation Exemption—State of South Dakota, STB Finance Docket No. 34645, STB served Jan. 14, 2005 (holding that contract issues are outside the agency's jurisdiction to resolve).

And, as noted above, King County has even acknowledged that it is obliged to allow the resumption of rail service..." Request of King County Washington at page 2, *supra*. Moreover, in granting King County's acquisition request, the Board explicitly put the County on notice that rail service could be restored at any time. The Board stated,

"The threshold issue in this case is whether it is permissible under the Trails Act for a trail sponsor to acquire from a railroad the right to reactivate rail service over a railbanked line even if there is no evidence that the trail sponsor intends to exercise that right... But as previously noted, the right to reactivate a railbanked line is not an exclusive right. [citation omitted]. While the parties' agreement would transfer to King County BNSF's opportunity to provide rail service, it would not preclude any other service provider from seeking Board authorization to restore active rail service on all or parts of the railbanked segments in the future if King County does not exercise its right to reinstate rail service. [citations omitted]. Accordingly, regardless of the parties' intentions, a bona fide petitioner, under appropriate circumstances, may request the NITU to be vacated to permit reactivation of the line for continued rail service. [citations omitted]. Thus, the parties'

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<sup>8</sup> See also, Standard Terminal Railroad of New Jersey, Inc.—Acquisition Exemption—Rail Line of Joseph C. Horner, STB Finance Docket No. 34551, STB served Oct. 8, 2004 and Morristown & Erie Railway, Inc.—Operation Exemption—Somerset Terminal Railroad Corporation, STB Finance Docket No. 34267, STB served Nov. 27 and Dec. 20, 2002 (both stating that the Board's publication of a notice and the effectiveness of an exemption does not constitute any finding by the Board concerning the ownership of the property involved).

plans have not been shown to be inconsistent with the railbanking purpose of the Trails Act.” King County-Acquisition Exemption, *supra* at 3-4.

The fact that King County has not as yet agreed to GNP’s restoration of service presents no bar to this Board’s ability to issue an exemption authorizing GNP to restore service or to the restoration of service itself. Here petitioner seeks an exemption under 49 U.S.C. 10502 from 49 U.S.C. 10902 to permit it to acquire King County’s common carrier rights and obligations and to restore service. But for the exemption of 49 U.S.C. 10502, GNP’s acquisition would require the Board’s formal authorization under 49 U.S.C. 10902 applicable to the acquisition (and also operation) of actively used railroad lines by existing class III rail carriers. Section 10902(c) requires the Board to issue a certificate authorizing a class III carrier to acquire an additional line of railroad unless the Board finds that the acquisition is inconsistent with the public convenience and necessity.

Petitioner believes that its request is appropriate for exemption from the formal requirements of §10902. Section 10502 directs the Board to grant an exemption from regulation if it finds that (1) regulation is not necessary to carry out the transportation policy of §10101(a) and (2) either (a) the transaction or service is of limited scope, or (b) the application of a provision of this subtitle is not needed to protect shippers from the abuse of market power. Indeed, the legislative history behind §10505 (the predecessor section to the current §10502) makes clear Congress’ intent that the Interstate Commerce Commission (and now the Board) use its exemption authority liberally to free certain

transactions and services from the administrative and financial costs associated with continued regulation.

In discussing the exemption powers of the Board's predecessor -- the ICC -- the Staggers Act legislative history states:

The policy underlying this provision is that while Congress has been able to identify broad areas of Commerce where reduced regulation is clearly warranted, the Commission is more capable through the administrative process of examining specific regulatory provisions and practices not yet addressed by Congress to determine where they can be deregulated consistent with the policies of Congress. The conferees expect that, consistent with the policies of this Act, the Commission will pursue partial and complete exemptions from remaining regulation.

H.R. Rep. No. 96-1430, 96th Cong. 2d Sess. 105 (1980); see also, Exemption from Regulation--Boxcar Traffic, 367 I.C.C. 424, 428 (1983), vacated and remanded on other grounds, Brae Corp. v. United States, 740 F.2d 1023 (D.C. Cir. 1984). This statement applies equally to the Board as the ICC's successor.

Exemption of the proposed transaction from §10902 is exactly the type of minor transaction Congress contemplated when it enacted §10502. Requiring GNP to submit a formal application is not necessary to carry out the transportation policy of 49 U.S.C. 10101a thereby satisfying the ICCTA's goals of minimizing federal control over transportation and reducing regulatory barriers to entry under §10101a (2) and (7). A grant will also facilitate several other goals including those of §10101a(4) which ensures the development and continuation of a sound rail transportation system with effective competition between rail carriers and other modes and those of §10101a(14) which

encourages and promotes energy conservation. Granting this exemption will allow the two customers that have appeared here in support of this Petition to shift their freight back to energy efficient rail service instead of truck delivery thus fulfilling these goals.

Moreover, a grant of GNP's Petition will further the Board's oft-expressed policy of preserving rail service for which there is a stated public need. As the Board has held, "we are mindful of Congress' intent, as expressed in many statutory provisions that lines be kept within the rail system where possible." Norfolk Southern Railway Company-Adverse Abandonment-St. Joseph County, MI, STB Docket No. AB-290 Sub-No. 286, STB served February 14, 2008, slip op. at 5-6 and note 15 (a denial of an adverse abandonment application opposed by a new short line railroad on account of potential new traffic); and BNSF Railway Company-Abandonment Exemption -in King County, WA, supra, slip op. at 3-4(denying an exemption from the offer of financial assistance provisions in the abandonment proceeding involving the very segment of the Woodinville Subdivision that is the subject of this Petition).

GNP's acquisition of King County's common carrier rights will permit a locally-based carrier to rehabilitate and restore to operation the Line handling traffic between the Line and the national rail system.

Granting GNP's request will also satisfy both the limited scope and the no abuse of captive shippers tests of §10502. The total length of the track involved is only about 9 miles. GNP's rail service would increase the competitive options of the shippers on the



agreement. Nevertheless, in view of agency precedent cited above that the abandoning rail carrier *or any other approved rail service provider* [emphasis supplied] may reassert control to restore service on the line in the future, the fact that King County has not as yet agreed to GNP's restoration of service presents no bar to this Board's ability to issue an exemption authorizing GNP to restore service or to the restoration of service itself.

Operator of the Property

**49 CFR 1150.43(d)**

Following vacation of the NITU in Docket No. AB-6 (Sub-No. 463X) and partial vacation of the NITU in Docket No. AB-6 (Sub-No. 465X), GNP will hold itself out to provide common carrier rail freight service over the subject rail facilities.

Brief Summary of Transaction

**49 CFR 1150.43(e)**

See discussion above.

Map

**49 CFR 1150.43(f)**

Two maps depicting the railroad trackage to be acquired and operated and depicting this trackage in relation to other nearby rail lines are attached as Exhibits A-1 and A-2.

Certificate of Carrier Classification

**49 CFR 1150.43(g)**

GNP certifies that, with this acquisition, its projected annual revenues will be less than \$5,000,000 annually. A certificate complying with the provisions of 49 CFR 1150.43(g) is attached as Exhibit F to this notice.

**Transactions Imposing Interchange Commitments 49 CFR 1150.43(h)**

Not applicable. Currently there is no agreement between GNP and King County, the owner of the Line. The Line connects to another rail line operated by GNP and connecting with BNSF Railway at Snohomish. Because BNSF Railway is GNP's only other rail carrier connection, there is no agreement containing any language limiting GNP's ability to interchange with other carriers.

**Disclosure of Intent to Transport Waste**

GNP does not presently intend to provide facilities for the collecting, sorting, loading, unloading, transferring, or transporting of municipal solid waste ("MSW") or construction and demolition ("C&D") material.

**Labor Protection**

Under 49 U.S.C. 10902 the imposition of labor protective conditions are not authorized for a class III railroad acquisition and thus none should be imposed on this transaction.

**Caption Summary**

**49 CFR 1150.44**

A caption summary in the prescribed form is attached as Exhibit G to this Notice.

**Environmental and Historic Preservation Data**

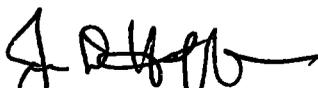
**49 CFR 1105**

Pursuant to 49 CFR 1105.6(c) (2), the proposed transaction is exempt from environmental review under 49 CFR 1105(c) (2) (i), because the actions proposed herein

will not cause any operating changes that exceed the thresholds established in 1105.7(e) (4) or (5).

In addition, this transaction is exempt from historic review under 1105.8(b) (1). Under this section, a sale, lease or transfer of a rail line is exempt if rail operations will continue. Further Board approval is required for the parties to abandon service, and there are no plans to dispose of or alter the properties subject to Board jurisdiction.

Submitted By



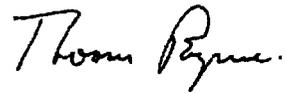
John D. Heffner  
John D. Heffner, PLLC  
1750 K Street, N.W.  
Suite 200  
Washington, D.C. 20006  
(202) 296-3333

Counsel for Petitioner

Dated: August 24, 2010

Pursuant to 28 U.S.C. 1746, I declare and verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: 17 August 2010

A handwritten signature in cursive script that reads "Thomas Payne".

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Thomas Payne

EXHIBIT A

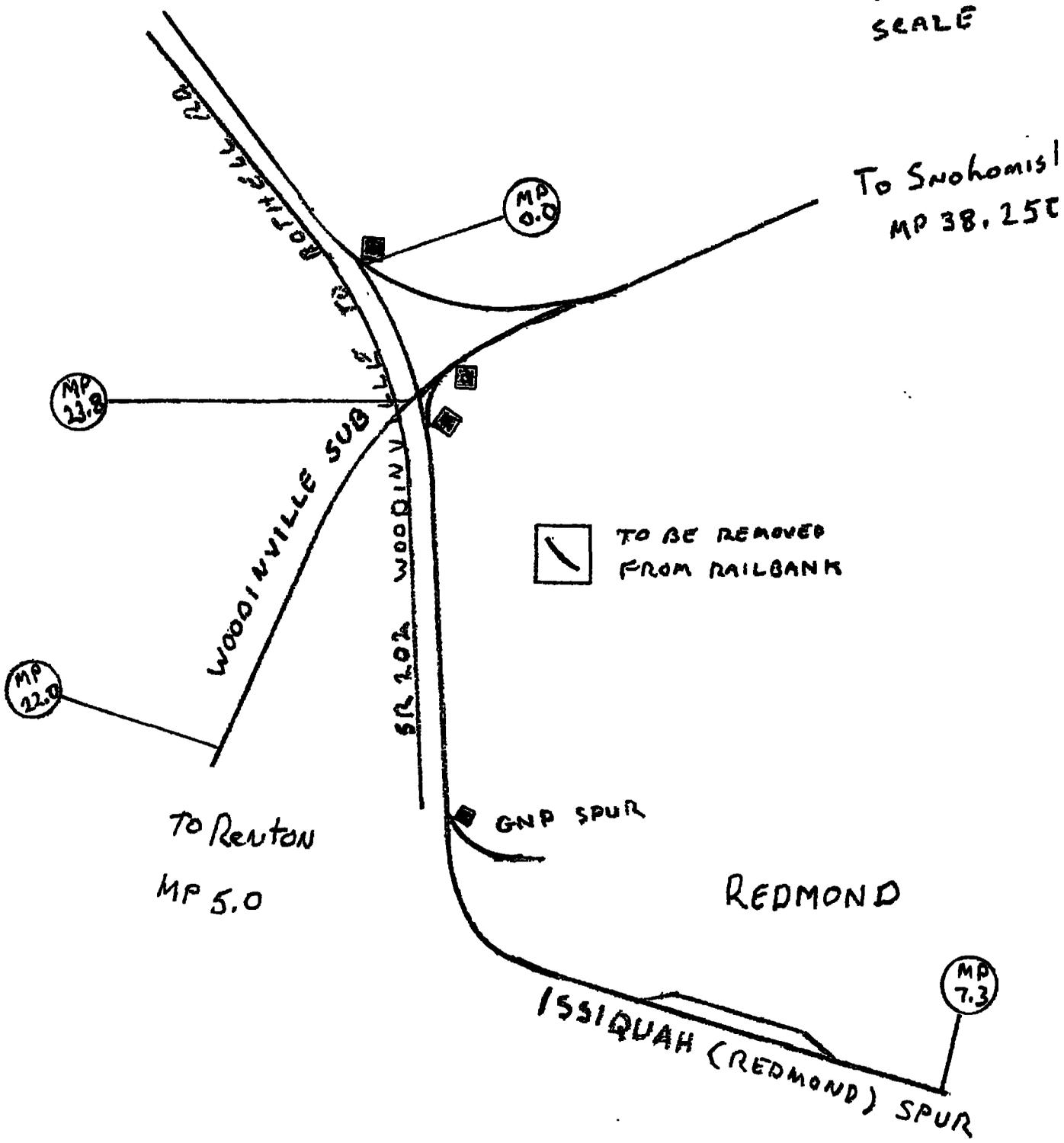
MAPS

A-1 SCHEMATIC

A-2 – ISSAQUAH SPUR

**Exhibit A  
Schematic Map**

NOT TO  
SCALE





**EXHIBIT B**

**VERIFIED STATEMENT OF THOMAS PAYNE**

VERIFIED STATEMENT OF  
THOMAS PAYNE

Thomas Payne, being duly sworn, deposes and states as follows:

My name is Thomas Payne. I am Chairman and Chief Operating Officer of GNP Rly Inc. (GNP”), a class III short line railroad common carrier, incorporated in the State of Washington. My business address is 403 Garfield Street, Suite 20, Tacoma, WA 98444. I have served in that capacity since the company was incorporated in Washington State in 2007.

I began my railroad career as a locomotive engineer with the Canadian Pacific Railway in Canada. Eventually I left that employment to start Central Western Railway, Canada’s first American-style entrepreneurial short line railroad. After a few years I sold that company to the American-based short line railroad holding company RailAmerica, Inc. Subsequently, I decided to reenter the short line business as an entrepreneur, established GNP as a noncarrier for the purpose of acquiring and operating railroad lines, and began to look for opportunities.

GNP’s first opportunity materialized in the Fall of 2008 and the winter of 2009 with the operation of a rail line formerly owned and operated by BNSF Railway Company (“BNSF”) that extended between Snohomish and Woodinville, WA. Known as the Woodinville Subdivision, the line was originally owned by BNSF predecessor the Northern Pacific Railroad. It ran from Mission, BC, south

to Renton, WA. After the merger of the Northern Pacific and Great Northern Railroads, the Burlington Northern selectively abandoned segments of the line resulting in a route that, up until recently, connected Snohomish on the north with Renton on the south. Snohomish County, WA, acquired a segment of the line north of Snohomish, MP 39.1 to 39.3 and entered into an agreement with GNP to operate that line under a Modified Certificate of Public Convenience and Necessity docketed by the STB as Finance Docket No. 35151. Several months later BNSF, the Port of Seattle (“the Port”), and GNP entered into a transaction whereby BNSF sold the Port underlying right-of-way and track between Snohomish at MP 38.25 and Woodville at MP 23.8 and conveyed to GNP a permanent railroad freight easement over the right-of-way in a *State of Maine* transaction.

GNP initiated service over its portion of the Woodinville Subdivision as of 18 December 2009 operating one freight train two times per week. The line currently serves 3 shippers accounting for approximately 250 car loads of freight per year. GNP interchanges that traffic with BNSF at Snohomish Jct., south of the northern terminus of the line. GNP’s agreement with the Port also permits it to run excursion passenger service over the line. GNP intends to initiate that service at a future date and also plans to provide an intrastate passenger rail operation that would service employees of the numerous “high tech” companies located adjacent to its right-of-way who currently must travel to their work by automobile.

As background to assist the Board in its understanding of this case, BNSF prosecuted a series of three abandonments in 2008 culminating in the current configuration of the Woodinville Subdivision south of MP 23.8. First, pursuant to an exemption granted in Docket AB-6, Sub-No. 463X, BNSF terminated rail service over the Redmond Spur, the line which is the primary focus of GNP's Petition for Exemption and Petition to Vacate Trail Use. Second, BNSF obtained an exemption permitting it to terminate service between MP 11.25 at Bellevue and MP 23.8 at Woodinville in Docket No. AB-6, Sub No. 465X. On March 8, 2010, King County filed letters with the Board indicating that it had entered into a trail use agreement with BNSF for each of these three segments and also indicating that the Port owns the track and underlying real estate on each segment. *See*, Notice of Consummation of King County at page 2.<sup>1</sup>

As the maps attached as Exhibits A-1 and A-2 illustrate, the Redmond Spur [alternatively known as the Issaquah Subdivision] diverges from the Woodinville Subdivision at MP 23.8 (or MP 0.0 on the Redmond Spur) and proceeds in a southeasterly direction to its terminus at Redmond at MP 7.3. Although the Redmond Spur has been designated for trail use, the railroad tracks remain in place and could be reactivated with only a minimal amount of rehabilitation work

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<sup>1</sup> A series of letters filed with the Board by BNSF on Feb. 4, 2010, reference King County's acquisition of BNSF's common carrier "reactivation rights" to restore rail service over each of these three lines.

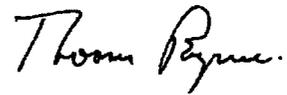
required. *See*, photos attached to this filing. King County has yet to undertake any work to convert the right-of-way into a “trail.”

During the time that GNP began its negotiations to provide service over the Woodinville Subdivision north of MP 23.8, several shippers approached GNP about providing service. Of these, Drywall Distributors, Inc., would use the Line to receive about 40 car loads per year of drywall products at a new siding to be constructed along the Line. Building Specialties, another shipper with a siding along the Line, formerly used BNSF’s service for two to five incoming carloads daily of gypsum wallboard, metal building products, and ceiling components. If GNP restores service, that customer plans to use the Line to receive a similar amount of traffic. All of these customers currently use some combination of truck or truck-rail transload service to meet their transportation needs and desire to return to using an all-rail service. Combined, these customers represent 250 carloads per year of rail traffic. Moreover, the Line is adjacent to property owned by Wallace/Knutsen LLC which is in the owner of a rail served industrial park which was formerly served by BNSF. An unused rail spur currently crosses this property. Wallace has furnished a Verified Statement appended to GNP’s notice as Exhibit C. It supports GNP’s request for operating authority as it expects that its tenants will desire rail service.

Reactivation of the Redmond Spur as part of the national railroad system would enable GNP to serve two customers currently without any direct rail service. Reactivation of a short segment of the Woodinville Subdivision between MP 23.8 and MP 22.0 would give GNP needed tail track to switch these customers. The freight these customers would generate would add substantially to GNP's existing traffic and revenue levels. Moreover, GNP believes that the reactivation of the Redmond Spur as a common carrier rail line is consistent with both the requirements of the National Trails Act as well as the Rail Policy Goals of the I.C.C. Termination Act. And, as a practical matter, the reactivation of the Redmond Spur will contribute to the overall quality of life in the Seattle area by diverting to rail traffic that now moves by highway. GNP urges the Board to grant its exemption request and vacate the Notice of Interim Trail Use or Abandonment entered in Dockets AB-6, Sub-No. 463X and 465X.

Pursuant to 28 U.S.C. 1746, I declare and verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: 17 August 2010

A handwritten signature in cursive script that reads "Thomas Payne".

---

Thomas Payne

**EXHIBIT C**

**VERIFIED STATEMENT OF ROBERT C. WALLACE**

VERIFIED STATEMENT OF  
ROBERT C. WALLACE

Robert C. Wallace, being duly sworn, deposes and states as follows:

My name is Robert C. Wallace. I am Manager of Wallace/Knutsen L.L.C., the owner of industrial properties located at 14960 and 14980 NE 90<sup>th</sup> Street, Redmond, Washington , and adjacent to, the Issaquah (Redmond) Spur. I am also Chairman and Chief Executive Officer of Wallace Properties, Inc., a commercial real estate company with a principal place of business at 330 112<sup>th</sup> Avenue N.E., Bellevue, WA 98009 - 4184. I have served in that capacity since 1982. I appear here in support of the Petition for Exemption filed by GNP Rly. Inc. ("GNP") to acquire the common carrier rights and obligations held by King County for the purpose of restoring rail service over the Redmond Spur and the adjacent Woodinville Subdivision.

Wallace Properties, on behalf of its affiliates and clients, operates commercial and industrial properties located in many of the communities located along the Woodinville Subdivision and Redmond (Issaquah) Spur.

As the maps attached as Exhibits A-1 and A-2 illustrate, the Redmond Spur [alternatively known as the Issaquah Subdivision] diverges from the Woodinville Subdivision at MP 23.8 (or MP 0.0 on the Redmond Spur) and proceeds in a southeasterly direction to its terminus at Redmond at MP 7.3. Although the

Redmond Spur has been designated for trail use, the railroad tracks remain in place and I am informed by GNP that they could be reactivated with only a minimal amount of rehabilitation work being required for freight service. *See*, photos attached to this filing .

Wallace/Knutsen L.L.C. desires rail service to its industrial properties in Redmond which are located at MP 5.42 on the Redmond Spur. BNSF formerly provided freight rail service to this site and adjacent properties. An unused rail spur, connected to the Redmond Spur, currently crosses these properties.

Wallace/Knutsen L.L.C. has leased this rail spur to GNP in order to assist in the reestablishment of rail service to the properties. Building Specialties, Wallace/Knutsen L.L.C.'s tenant on this property in Redmond, formerly used BNSF's service for two to five incoming carloads daily of gypsum wallboard, metal building products, and ceiling components. If GNP restores service, my understanding is that Building Specialties plans to use the GNP's service on the Redmond Spur to receive a similar amount of traffic.

Wallace Properties, Inc. and Wallace/Knutsen L.L.C. support GNP's request for operating authority as it believes that its tenants, affiliates and clients, as applicable, will likely desire and use rail service. Should reactivation of the Redmond Spur as part of the national railroad system enable GNP to service new industrial customers located on the properties we own and operate, it would likely

improve the value of the properties and desirability of the sites for industrial users. It is our experience that road and rail served industrial properties are highly desirable.

GNP Rly, Inc. informs me that the freight our tenants would generate would add substantially to GNP's existing traffic and revenue levels. It appears that the reactivation of the Redmond Spur as a common carrier rail line is consistent with both the requirements of the National Trails Act as well as the Rail Policy Goals of the I.C.C. Termination Act.

Based on my experience as a long standing member of the Eastside business community and as an individual long active in civic and political affairs in Greater Seattle, the reactivation of the Redmond Spur and the entire rail corridor along the I-405 corridor provides a compelling opportunity to provide a much needed north/south alternative to the freeways for both freight and commuters. It does not appear that planned improvements to I-5 and I-405 will keep up with growth in population and traffic volumes. Reinstating a rail alternative will therefore contribute to the overall economic health and quality of life in the Greater Seattle area by diverting to rail traffic that now moves by highway, reducing the congestion on the freeways and enabling consistent freight and passenger movement on the rail corridor.

Wallace urges the Board to grant GNP's exemption request and vacate the Notice of Interim Trail Use or Abandonment entered in Dockets AB-6, Sub-Nos. 463X and 465X.

Pursuant to 28 U.S.C. 1746, I declare and verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: August 4, 2010



Robert C. Wallace

**EXHIBIT D**  
**DRYWALL DISTRIBUTORS SUPPORT LETTER**  
**AND VERIFICATION**



P.O. BOX 14  
16026 WOOD-RED ROAD  
WOODINVILLE, WA 98072-0014  
(425) 488-4888  
FAX (425) 488-3697

July 1<sup>st</sup>, 2010

Honorable Anne K. Quinlan  
Surface Transportation Board  
395 E. Street SW Suite# 1260  
Washington DC 20423-001

Re: Issaquah Subdivision (Redmond Spur) Reactivation – Intent To Ship

Dear Ms. Quinlan:

We are Drywall Distributors, Inc. of Woodinville, Washington. Since the early 1980's, we have been a major supplier of superior drywall products to greater Seattle area contractors. We provide product to large commercial and complicated multi-unit projects. We supply many types of product including specialty wallboard.

Our Woodinville office address is 16026 Woodinville-Redmond Rd NE Woodinville, WA 98072. We are located directly in back of, and contiguous to the Redmond spur that has serviced our facility in the past, and desire to re-activate delivery products on that line. In the past we have taken product off trains approximately three miles north at the multiple siding site in downtown Woodinville, but desire a siding in front of our buildings on Woodinville Redmond Road to make that delivery easier.

On behalf of Drywall Distributors, I support the petition of GNP Railway to restore the rail line between Woodinville and Redmond to active operation. Drywall Distributors is an important provider of construction materials, essential to both jobs and the reinvigoration of the Nation's construction industry and thus its prosperity. For the past nine years, I have been the owner of Drywall Distributors. I am responsible for all of the company's logistics decisions at this location including shipping and receiving of Drywall Distributors freight.

It is my understanding that GNP has been authorized by the Federal Surface Transportation Board to operate a rail line between Snohomish and Woodinville that was formerly owned and operated by West Railway Company. I understand that GNP desires to reactivate the branch off the Snohomish-Woodinville line that extends to Redmond and would serve our facility located at 16026 Woodinville-Redmond Rd NE. This branch line is in the process of being converted to use for automobile use as a rail trail.

Should GNP restore that branch to active rail service, Drywall Distributors is prepared to use that line to meet many of its incoming and possibly outgoing transportation needs. We would expect to receive forty cars per year (center support flatcars) starting as soon as the service is available. (Hopefully Fall 2010) This traffic would originate in several areas of the western United States, but mostly from Arizona and Texas. Currently, Drywall Distributors uses motor carrier and intermodal transload service both nationally and from the Seattle area to handle this traffic. Presently, four truckloads of material arrive at our facility daily. We would prefer to use rail because increasing diesel fuel prices are passed along in the wholesale price to us and it is more convenient to offload from the tracks directly in front of our facility. Lastly, many of our suppliers are set up to use rail and would prefer that we accept shipments that way. We have asked our suppliers to quote us rates on this traffic and are awaiting their response.

In conclusion, we urge the Board to grant GNP's petition to reactivate this rail line.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott McDonald", with a large, stylized flourish at the end.

Scott McDonald  
Owner  
Drywall Distributors, Inc.

VERIFICATION

Pursuant to 28 U.S.C. 1746, I declare and verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: 3 day of August, 2010.



[signature]

**EXHIBIT E**  
**BUILDING SPECIALTIES SUPPORT LETTER**  
**AND VERIFICATION**



14980 NE 90 STREET

REDMOND WA 98052

425 882 3116

FAX 425 881 5830

July 8, 2010  
Honorable Anne K. Quinlan  
Surface Transportation Board  
395 E Street SW, Suite 1260  
Washington DC 20423-001

Re: Issaquah Subdivision (Redmond Spur) reactivation – Intent to Ship.

Dear Ms. Quinlan;

We are Building Specialties, of Redmond Washington, one of 220 local distribution centers of LW Supply. L&W Supply is the professional contractor's single source for over 40,000 products, and the Nation's largest supplier of gypsum wallboard, metal building products and ceiling components.

Our Redmond office address is 14980 NE 90<sup>th</sup> St, Redmond, WA 98052. Our property is served by a rail siding off of the Redmond spur that has serviced our facility in the past. We desire to re-activate delivery of products on that line. We understand that the GNP Railway has secured a lease of the siding and on behalf of Building Specialties I support the petition of GNP Railway to restore the rail line between Woodinville and Redmond to active operation. Building Specialties and LW Supply is an important provider of construction materials, essential to both jobs and the reinvigoration of the Nation's construction industry and thus its prosperity. For the past 7 years I have been employed by Building Specialties as its Center Manager. In that capacity I am responsible for all of the company's logistics decisions at this location including shipping and receiving of Building Specialties' freight.

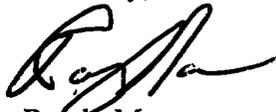
It is my understanding that GNP has been authorized by the federal Surface Transportation Board to operate a rail line between Snohomish and Woodinville that was formerly owned and operated by BNSF Railway Company. I also understand that GNP desires to reactivate the

branch off the Snohomish-Woodinville line that extends over to Redmond and would serve our facility located at 14980 NE 90<sup>th</sup> St. Redmond, WA. This branch line is in the process of being converted to recreational use as a rail trail.

Should GNP restore that branch to active rail service, Building Specialties is prepared to use that line to meet many of its incoming transportation needs. Prior to the cessation of Burlington Northern service we were averaging two to five carloads of material per day to our facility. We would expect to receive Forty per year. (a mixture of closed boxcar and/or flatcar center support freight cars) starting as soon as the service is available. (Hopefully fall 2010). This traffic originates in several areas of the western United States (Empire Nevada, Sperry Iowa Gypsum Colorado). Currently, Building Specialties uses motor carrier and intermodal transload service from the Rainer OR area to handle this traffic. Presently 34 truckloads of material arrive at our facility daily. We would prefer to use rail because increasing diesel fuel prices are passed along in the wholesale price to us, it is more convenient to offload from the tracks at the rear of our storage facility, and many of our suppliers are set up to use rail and would prefer that we accept shipments that way. We have will be asking our suppliers to quote us rates on this traffic and await their response.

In conclusion, we urge the Board to grant GNP's petition to reactivate this rail line.

Sincerely,



Randy Mann,  
Center Manager  
Building Specialties

VERIFICATION

Pursuant to 28 U.S.C. 1746, I declare and verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: 2 day of August, 2010.

  
[Signature]

**EXHIBIT F**  
**CERTIFICATE OF CARRIER CERTIFICATION**

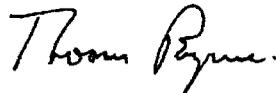
Exhibit F

***Certification***

I, Thomas Payne, certify that I am Chairman and C.O.O., of GNP Rly Inc and that applicant's projected revenues will not exceed \$5 million annually and will not result in the applicant becoming a Class I or Class II carrier under the provisions of 49 CFR 1201(1-1).

I further certify that the foregoing statements made by me are true, and that I am aware that if any of the foregoing statements made by me be willfully false, I am subject to punishment.

Dated: Aug. 16, 2010



Signature

\_\_\_\_\_  
Thomas Payne, Chairman, C.O.O

**EXHIBIT G**  
**CAPTION SUMMARY**

**EXHIBIT G**

**STB FINANCE DOCKET NO. 35407**

**GNP RLY INC.  
-- ACQUISITION AND OPERATION EXEMPTION --  
REDMOND SPUR AND WOODINVILLE SUBDIVISION**

**VERIFIED PETITION FOR EXEMPTION  
PURSUANT TO 49 U.S.C. 10502**

**NOTICE OF ACQUISITION AND OPERATION OF RAIL LINE  
INFORMATION REQUIRED BY 49 CFR 1150.43**

GNP Rly Inc., an existing class III short line railroad common carrier, has filed a Verified Petition for Exemption under 49 U.S.C. 10502 from the requirements of 49 U.S.C. 10902 to acquire the residual common carrier rights and obligations, including the right to reinstitute rail service under a Notice of Interim Trail Use or Abandonment (“NITU”) of King County, WA, on a rail line extending between MP 0.0 at Woodinville and approximately MP 7.3 at Redmond, a distance of approximately 7.3 miles in King County, WA (“the Redmond Spur”), and a connecting rail line between MP 23.8 and MP 22.0 near Woodinville, WA (“the Woodinville Subdivision” and collectively referred to as “the Line”).

Comments must be filed with the Board and served on:

John D. Heffner, Esq.  
John D. Heffner, PLLC  
1750 K Street, N.W. – Suite 200  
Washington, D.C. 20006  
Telephone: (202) 296-3334  
Counsel for GNP

This proceeding is related to BNSF Railway Company-Abandonment Exemption-in King County, WA, STB Docket No. AB-6 (Sub-No. 463X), STB served October 27, 2008, and BNSF Railway Company-Abandonment Exemption-in King County, WA, STB Docket No. AB-6 (Sub-No. 465X), STB served November 28, 2008, in which GNP has concurrently filed a Petition to Vacate the CITU with respect to the Line.

This notice is filed under 49 C.F.R. 1150.41. If the notice contains false or misleading information, the exemption is void ab initio. The filing of a petition to revoke will not automatically stay the transaction.

(seal)

Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings

**EXHIBIT H**  
**PHOTOGRAPHS**

## Exhibit H – Photographs

1. **SLS&E Issaquah Sub – West Jct. Switch MP 0.0**



2. **SLS&E Issaquah Sub/ SBL Woodinville Sub MP 23.82 crossing**



3. **SLS&E Issaquah Sub East Junction Switch, SBL MP 23.88**

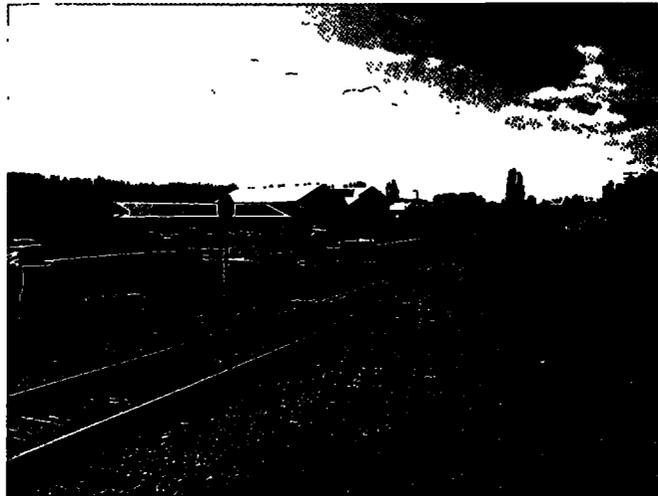


## Exhibit H – Photographs

### 4. Issaquah Sub MP 0.28



### 5. Issaquah Sub MP 0.88 - Drywall Distributors x-ing



### 6. Issaquah Sub MP 0.88 - Drywall Distributors



## Exhibit H – Photographs

### 7. Issaquah Sub MP 0.93 - Woodinville Lumber



### 8. Issaquah Sub MP 0.99 - Matheus Lumber



### 9.1 Issaquah Sub MP 2.26 – Ste Michelle Winery Switch



## Exhibit H – Photographs

### 9.2 Issaquah Spur - St Michelle Winery Aerial, switch on main track at MP 2.36



### 10.1 Issaquah Sub MP 5.42, Look North



### 10.2 Issaquah Sub MP 5.42, Look East – GNP Spur



## Exhibit H – Photographs

### 10.3 Issaquah Sub MP 5.42, Look South



### 10.4 Issaquah Spur MP 5.42 - Building Specialties – GNP Spur to rear of building



### 11.1 Issaquah Sub MP 6.72, Look East



## Exhibit H – Photographs

### 11.2 Issaquah Sub MP 6.73, Look West



### 12.1 Woodinville Sub MP 23.8, Look North



### 12.2 Woodinville Sub MP 23.8 Look South



ATTORNEY CERTIFICATION OF SERVICE

I, John D. Heffner, an attorney-at-law of the District of Columbia, hereby Certify under penalty of perjury that I served a copy of the within pleading upon the following persons by First Class Mail on August 24, 2010:

Hon. Dow Constantine  
King County Executive  
Chinook Building  
401 Fifth Ave., Suite 800  
Seattle, WA 98104-1818

Peter G. Ramels, Esq.  
Senior Deputy Prosecuting Attorney  
King County  
W400 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

Craig Watson, Esq.  
General Counsel  
Port of Seattle  
Pier 69  
P.O.Box1209  
Seattle, WA 98111

  
\_\_\_\_\_  
John D. Heffner

Dated: August 24, 2010