

National Association of Reversionary Property Owners (NARPO)

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Cynthia Brown

Chief, Section of Administration Surface Transportation Board Office of
Proceedings

395 E Street, SW

Washington, DC 20423

Re: Docket No. AB 6 (Sub-No. 494X), BNSF Railway Company -- Abandonment
Exemption -- In Larimer County, Colo.

Dear Ms. Brown:

NARPO is responding to Karl Morell's October 26, 2018 in AB 6-494X letter where
Mr. Morell tried to mitigate some of NARPO's accusations in AB 6-494X. Mr.
Morell evidently is an outside attorney for BNSF.

Mr. Morell says BN (maybe BNSF depending on when the name change occurred)
at the bequest of Colorado Public Utilities Commission (CPUC) removed the tracks
and crossings from MP 74.5 to MP 75. Assuming the CPUC wanted the crossings
gone, that does not account for the buildings that are now on the Right of Way
(ROW). Now if BN actually owned the ROW from MP 74.5 to MP 75, then NARPO
supposes BN has the right to sell off part of their ROW. But according to BN, they
have never abandoned the ROW as NARPO has alleged so selling off part of the
ROW would appear to indicate BN actually abandoned the ROW many years ago;
whether authorized by the ICC or not. NARPO cannot imagine a property

developer would put up a many unit building without some sort of title to the property; especially if there was a mortgage attached to the buildings. It appears from some records that abutting property owners have provided, BN only had an easement for railroad purposes for most if not all of the ROW property. Mr. Morell did not respond to NARPO's accusation that BN cancelled the tariffs many years ago.

As to NARPO's accusations in AB 6-306X where Ft. Collins built a huge Utility Facility in the middle of the ROW which has a NITU attached, why did not Ft. Collins acknowledge this disruption of the NITU when Ft. Collins requested a change in the NITU September 14, 2015 from MP 75.0 to MP 75.82 which is the portion of the NITU exactly where the Utility Facility sits? The Utility Facility was in place many years before 2015. While it is easy for Ft. Collins (through Mr. Morell) to say should a restoration of rail service should ever happen, Ft. Collins would remove this large building, but that is easier said than done. Besides it is against the stated reasons for requesting a NITU which is to build an interim trail of which there is no such thing in Ft. Collins after 30 years of the NITU. Also the STB approved a vacation of part of the NITU in the September 14, 2015 petition from Ft. Collins. But the vacation that the STB approved left a portion of the NITU vacant and terminated which cut off the portion from MP 76.61 to MP 77.83 from the National Rail System. According to 16 USC 1247(d) and 49 CFR 1152.29, a NITU has to be connected to the National Rail System.

As can be seen from NARPO's foregoing comments, Ft. Collins and BN are playing games, very loosely NARPO might add, with the STB and their rules and laws. These trail groups along with consenting railroads are forming a large dossier of how to game the abandonment and trails use system for their own financial gain. At some point, the STB should wise up to what is happening and put a stop to these shenanigans. The property owners who own almost all the land abutting railroad ROWs in America are the one who always lose out. The STB's job is not to just enrich the railroads, but to protect all citizens from fraud and harassment.

NARPO requests the STB to vacate the NITU in AB 6-306X and declare that BN has already abandoned the ROW in AB 6-494X. If the STB would like NARPO to file another separate comment AB 6-306X to keep the two abandonment separate, NARPO would be glad to do so.

Sincerely yours,

Dick Welsh, Executive Director, NARPO

NARPO verifies that Karl Morrell at: karlm@karlmorell.com , BNSF's attorney in AB 6-494X, Darin Atterberry at: datteberry@fcgov.com Ft. Collins City Manager, and Ingrid Decker at: idecker@fcgov.com Ft. Collins City Attorney have received an email copy of this letter.

Signed Richard Welsh for NARPO dated October 29, 2018