

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-1316X

**GNP RLY, INC. – ABANDONMENT EXEMPTION
- IN KING COUNTY, WASHINGTON**

NOTICE OF RECENT DEVELOPMENT

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GNP RLY, Inc (“GNP”) and the City of Woodinville, WA (“the City”) file this notice to advise the Board of a recent state court decision from the Snohomish County Superior Court. That decision supports vacation of an abeyance order entered by the Director of Proceedings (“the Director”) in this proceeding on April 11, 2022.¹ On January 26, 2023 the Snohomish County Superior Court granted GNP’s motion for partial summary judgment in an action filed by GNP to quiet title to the freight easement covering the Snohomish County segment of the rail line (“the Snohomish Segment”). The Court held that Eastside Community Rail (“ECR”), Douglas Engle and Mr. Engle’s relatives “do not own or otherwise possess any legal interest in the exclusive freight rail easement that is the subject of the suit.”²

While the summary judgment order does not resolve title questions between GNP and the County, it removes the last impediment to processing GNP’s Verified Notice of Exemption to abandon or railbank an adjoining 2.58-mile segment of its rail line in Woodinville, Washington (“the Woodinville Segment”). On September 14, 2022 the Director declined to lift the stay imposed by the April 11 Order until state court actions involving both the Woodinville Segment and the Snohomish Segment are resolved.³ The Director acknowledged that Washington courts had entered judgment quieting title to the freight easement over the Woodinville Segment in favor

¹ *GNP RLY, Inc. – Aban. Exemption – in King County, Wash.*, AB 1316X, slip op. at 1 (STB served Apr. 11, 2022) (“the April 11 Order”).

² *GNP RLY, Inc. v. Snohomish County et al.*, Order Granting Plaintiff GNP’s Motion For Summary Judgment Re: Named Defendants Except Snohomish County at 4, Snohomish County Superior Court No. 21-2-03931-31 (filed Jan. 26, 2023), Exh. A to the Second Verified Statement of Brandon Buchanan In Support of GNP RLY, Inc. Verified Notice of Exemption, AB 1316X (filed February 17, 2023).

³ *GNP RLY, Inc. – Aban. Exemption – in King County, Wash.*, AB 1316X, slip op. at 2 (STB served Sept. 14, 2022) (“the September 14 Decision”).

of GNP and holding that ECR holds no legal interest in the easement.⁴ The Director noted, however, that the Snohomish County quiet title action remained pending, and stated that the outcome of that litigation could affect the Board's decision on an ECR application to reopen a decision in Docket No. FD 35692.⁵

The Snohomish County quiet title action has now been resolved against ECR and its principals. The County filed comments in this docket in support of lifting the stay, so that GNP and Woodinville can proceed with railbanking the Woodinville Segment.⁶ The City previously advised the Board that the stay imposed by the April 11 Order was disrupting the City's efforts to implement and secure funding for critical public works projects, including but not limited to development of a trail on the railbanked Woodinville Segment.⁷ The stay continues to hamper those efforts, stalling implementation of a critical traffic and pedestrian safety project funded by the 2023 Consolidated Appropriations Act, with sponsorship from Rep. Suzan DelBene.⁸ Continued delay resulting from the stay will undercut the viability of a City application for a federal RAISE grant from the U.S. Department of Transportation for planning and design of improvements to the corridor.⁹

⁴ September 14 Decision at 1-2.

⁵ *Id.* at 2.

⁶ Snohomish County's Comments On "Appeal of Director's Decision" at 1, AB 1316X (filed Sept. 29, 2022).

⁷ Verified Statement of Brandon Buchanan In Support of GNP RLY, Inc. Verified Notice of Exemption ¶ 7, AB 1316X (filed May 6, 2022).

⁸ Second Verified Statement of Brandon Buchanan In Support of GNP RLY, Inc. Verified Notice of Exemption ¶ 3, AB 1316X (filed February 17, 2023).

⁹ *Id.*

In light of the Snohomish County judgment, GNP and Woodinville renew their request that the Board lift the April 11 Order holding GNP's exemption in abeyance, so that GNP and Woodinville can implement their agreement to railbank the Woodinville Segment.

Respectfully submitted this 17th day of February, 2023.

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[By electronic signature]
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CERTIFICATE OF SERVICE

I certify that on February 17, 2023 I served by email an e-filed copy of the foregoing document upon all parties of record in this proceeding as listed below per the STB service list.

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DATED: February 17, 2023

s/ Michele Brandon

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