

Before the Surface Transportation Board

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Eastern Idaho Railroad -)

Abandonment Exemption -) AB-1252 (Sub.no. 1X)

In Bonneville County, ID)

Expeditious Treatment Requested
(NITU Expires June 5, 2021)

Fee Waiver Requested (local government)

City of Idaho Falls

Request for NITU Extension

The City of Idaho Falls ("City") hereby moves for an extension of time for negotiation under the currently applicable Notice of Interim Trail Use (NITU). The NITU negotiation period currently terminates on June 5, 2021. See "Decision and Notice of Interim Trail Use or Abandonment" in this proceeding, served June 5, 2020. The City requests an extension for one year through and including June 4, 2022.

Eastern Idaho Railroad ("EIRR") per its counsel Robert Wimbish, Fletcher & Sippel, has authorized the undersigned to state that the railroad consents to this extension.

Fee Waiver Requested

City of Idaho Falls is a unit of local government and thus qualifies for waiver of all fees associated with this NITU extension request. 49 C.F.R. 1002.2(e)(1) (filing fees "are waived" for local government entities).

Grounds of Extension

1. 49 C.F.R. 1152.29(d)(1)(ii) provides that "[p]arties may request a Board order to extend, for one-year periods, the interim trail use negotiation period. Up to three one-year extensions of the initial period may be granted if the trail sponsor and railroad agree." Pursuant to this regulation, City of Idaho Falls, with the consent of EIRR, hereby moves for and requests a one-year extension in the NITU. This is the first extension requested.

2. Although it is City's understanding that no special showing is required for an initial extension based on consent of the relevant parties, City notes that negotiations between the City and EIRR ran into some difficulties. However, the Idaho Department of Transportation ("IDT") indicated to the City that IDT was interested in pursuing the transaction on behalf of the City. IDT is believed to have some interests in the property compatible with those of the City.

IDT (per Ms. Barbara Waite, IDT Railroad/Utility Manager) has now informed the City that IDT has made progress in

negotiations with the railroad and that IDT and the railroad both desired the City to request a one-year extension in the NITU negotiation period in order to complete negotiations.

Counsel for the City has now confirmed (a) with IDT that IDT is actively involved and wishes an extension, and (b) with Mr. Wimbish (EIRR's counsel) that the railroad also consents to the extension. An extension is therefore appropriate.

3. In order to ensure no jurisdictional issues arise, City requests that the NITU extension be granted with no lapse. Since June 5 (expiration date of the current NITU) is a Saturday, City requests that the NITU be extended on or before Friday, June 4.

Conclusion

Pursuant to 49 C.F.R. 1152.29(d)(1)(ii), a one-year extension of the NITU should be granted through June 4, 2022.

By my signature below, I certify service counsel for E.I.R.R. at the address stated by email attachment and telephone call on 2 June 2021.

Respectfully submitted,

S/ Charles H. Montange

Charles H. Montange
Law Offices of Charles H. Montange
426 NW 162nd St.
Seattle, WA 98177
(206) 546-1936
Fax: -3739
c.montange@frontier.com
Counsel for City of Idaho Falls

Of counsel: Randall Fife, Esq.
City Attorney, City of Idaho Falls
P.O. Box 50220
Idaho Falls, Idaho 83402

cc. Robert A. Wimbish, Esq. (rwimbish@fletcher-sippel.com)
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 800
Chicago, Illinois 60606-2832

Barbara.Waite@itd.idaho.gov