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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, Colorado

Dear Ms. Brown:

This is in response to the letter filed October 15, 2018, by the National Association of Reversionary Property Owners ("NARPO"). In the letter, NARPO makes a number of erroneous observations.

NARPO claims that the rail line BNSF Railway Company ("BNSF") seeks to abandon in this proceeding (between mileposts 74.5 and 75.0) was abandoned over 25 years ago. A BNSF predecessor, Burlington Northern, abandoned the adjacent rail line between milepost 75.0 in Fort Collins, and milepost 79.0, near La Porte, in 1988, in AB 6 (Sub-No. 306X). Because of public complaints that the City of Fort Collins was receiving, the City asked BNSF to abandon and salvage the rail line between mileposts 74.5 and 75 (the "Line"). Consistent with that request, BNSF filed an application with the Colorado Public Utilities Commission to remove the three crossings on the Line. The Commission order granting that request is attached as Exhibit 1. Accordingly, the Line was not salvaged 25 years ago as alleged by NARPO.

NARPO attaches an aerial picture of the Line and claims that a 12-unit building has been erected on the right-of-way. As the aerial picture clearly shows, the building was erected adjacent to the Line. There is sufficient right-of-way remaining to allow BNSF to

reconstruct the Line should there be a need for rail service in the future.

NARPO next refers to the area railbanked in AB 6 Sub-No. 306X. NARPO claims that the right-of-way "goes right through the middle of the Utility facility area with many large buildings blocking any future use as a railroad right of way". The only things obstructing the reactivation of rail service in this area are parking facilities and a shed that, according to the City of Ft. Collins, can be readily removed. Thus, the reactivation of rail service has not been permanently impaired by the City.

While BNSF seeks to extend the consummation deadline, BNSF cannot at this time consummate the abandonment. In its decision served November 28, 2017, in this proceeding, the Board imposed an historic condition. Until that condition is removed, the abandonment may not be consummated.

Sincerely,

A handwritten signature in cursive script that reads "Karl Morell".

Karl Morell

cc: Ingrid Decker, Esq.

Dick Welsh

EXHIBIT 1

Decision No. C10-0123

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 09A-911R

IN THE MATTER OF THE APPLICATION OF THE BNSF RAILWAY COMPANY FOR AUTHORITY TO REMOVE PASSIVE WARNING DEVICES AT SHERWOOD STREET NORTH OF SYCAMORE, DOT #244971M, CHERRY STREET AT MASON STREET, DOT #244970F, AND MASON COURT NORTH OF CHERRY STREET, DOT #926625H, IN THE CITY OF FORT COLLINS, COLORADO.

COMMISSION ORDER DEEMING APPLICATION COMPLETE AND GRANTING APPLICATION

Mailed Date: February 16, 2010
Adopted Date: February 10, 2010

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by BNSF Railway Company (BNSF) on December 16, 2009. BNSF requests authority to abolish the crossings of the BNSF with Sherwood Street north of Sycamore, National Inventory No. 244971M, Cherry Street west of Mason Street, National Inventory No. 244970F, and Mason Court, National Inventory No. 926625H, in Fort Collins, Colorado by removing the tracks and paving over the street.

2. The Commission gave notice of this Application to all interested parties, including adjacent property owners in accordance with § 40-6-108(2), C.R.S. The Notice was mailed December 30, 2009.

3. On January 6, 2010, BNSF filed a Notice of Posting of Notices of Proposed Closing of Crossings (Notice). The Notice provides written and visual confirmation that the

posting of notice of closure of the crossing required by 4 *Code of Colorado Regulations* (CCR) 723-7-7208(c)(I-III) occurred at the crossing on December 29, 2009.

4. The proposed crossing abolishment will not involve roadway construction other than that required to remove the track and install pavement where the tracks once were and will not involve the permanent rerouting of traffic due to a road closure. For these reasons, BNSF has omitted specific information from the Application such as existing and future traffic volumes, and plan and profile drawings of the crossings due to the expense to create such drawings when the crossing is being abolished. Rules 7204(c)(VII), (XII), and (XIII) require such information. However, Rule 7204(b) allows an applicant to omit required information the applicant believes is excessive compared to the scope of the proposed project provided the application specifically justifies the omission. Given the scope of the Application and the fact that the crossings in question are proposed to be abolished by removal of the tracks and patching of the roadway, we agree with BNSF that traffic volumes, detailed plan and profile drawings, and signing and striping plans are not necessary for this Application.

5. The Commission has reviewed the record in this matter and deems that the Application is complete within the meaning of § 40-6-109.5, C.R.S.

6. Now being fully advised in the matter, we grant the Application.

B. Findings of Fact

7. The Commission gave notice to all interested parties, including the adjacent property owners. No intervention was received opposing the application.

8. BNSF proposes to abolish the crossings of BNSF with Sherwood Street, Cherry Street west of Mason Street, and Mason Court in Fort Collins, Colorado by removing the rail and patching the roadway. The reason for the proposed abolition is that no trains are using the

former Fort Collins to Greeley branch line or the wye track and there is no reason to keep and maintain crossing warning devices and advanced warning signs. We will require BNSF to work with the City of Fort Collins to coordinate the removal of the advance warning signs with the removal of the track and crossings.

9. BNSF states that all expenses related to the closure and abolishment of the crossing will be borne solely by BNSF. BNSF does request that the City of Fort Collins remove the advance warning signs to these crossings at its own expense.

10. Work related to the removal of the crossing will begin once the weather is warmer this spring or summer, and will take approximately 30 days to complete. We will require BNSF to inform us in writing that the crossing abolishments are complete within 10 days of the completion and provide copies of the updated National Inventory Crossing information sheets as part of this information. We shall initially expect this letter and updated inventory sheets sometime around August 31, 2010. However, we understand this letter and updated inventory sheets may be provided earlier or later than this date depending on changes or delays to the construction schedule.

11. Once the crossings are abolished, BNSF will continue to maintain the remaining tracks and operating facilities and the City of Fort Collins will maintain the street and their expense pursuant to Rules 7211(a) and (c) respectively.

12. We find that accidents will be prevented and the safety of the public will be promoted by the abolishment of these crossings.

C. Conclusions

13. The Commission has jurisdiction in this matter under §§ 40-4-106(2)(a) and (3)(a), C.R.S.

14. There are no intervenors in this matter.

15. Because the Application is unopposed, the Commission will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and Rule 1403 of the Rules of Practice and Procedure, 4 CCR 723-1.

16. We will grant the Application consistent with the above discussion in paragraphs 8 through 11.

II. ORDER

A. The Commission Orders That:

1. This application (Application) filed by the BNSF Railway Company (BNSF) on December 16, 2009 requesting authority to abolish the crossings of the BNSF with Sherwood Street north of Sycamore, National Inventory No. 244971M, Cherry Street west of Mason Street, National Inventory No. 244970F, and Mason Court, National Inventory No. 926625H, in Fort Collins, Colorado by removal of the tracks and paving of the street is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Application is granted, consistent with the discussion above.

3. BNSF is authorized and ordered to proceed with the abolishment of the subject crossings as outlined in the Application.

4. BNSF is required to work with the City of Fort Collins to coordinate the removal of advanced warning signs with the track and crossing removal.

5. BNSF is required to inform the Commission in writing that the crossing has been abolished within ten days after completion and is required to provide copies of the updated National Inventory Crossing information sheets as part of this information. We shall expect this letter and updated inventory sheets sometime around August 31, 2010. However, we understand

this letter and updated inventory sheets may be provided earlier or later than this date depending on changes or delays to the construction schedule.

6. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Order.

7. The Commission retains jurisdiction to enter further required orders.

8. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 10, 2010.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RONALD J. BINZ

JAMES K. TARPEY

MATT BAKER

Commissioners

Exhibit H-2

