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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. AB 1239 (SUB-NO. 3X)

CITY OF TACOMA, DEPARTMENT OF PUBLIC UTILITIES D/B/A TACOMA
RAIL
--DISCONTINUANCE OF SERVICE EXEMPTION--
IN PIERCE COUNTY, WASHINGTON

**RESPONSE AND OBJECTION OF TACOMA STEEL SUPPLY, INC. TO
PETITION FOR EXEMPTION OF CITY OF TACOMA DEPARTMENT OF
PUBLIC UTILITIES D/B/A TACOMA RAIL**

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**ATTORNEY FOR TACOMA STEEL
SUPPLY, INC. AND TSSI, LLC**

Dated: April 12, 2023

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SURFACE TRANSPORTATION BOARD

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COMES NOW, interested parties Tacoma Steel Supply, Inc. and TSSI, LLC and hereby object to the Petition for Exemption filed by Tacoma Rail from the prior approval requirements of 49 U.S.C. § 10903 to be relieved of its common carrier obligations over approximately 3.5 miles of railroad line that it owns extending from milepost 2.11 at east C Street (USDOT Grade Crossing Inventory Number 396640 U) to milepost 5.61 at McKinley Avenue (USDOT Grade Crossing Inventory Number 396659 L) in the City of Tacoma, Pierce County, Washington (the “Line”). This response and objection is filed in response to the representation made by Tacoma Rail that it has no reason to believe that Tacoma Steel will object to the present discontinuance plans. See page 3 of the Petition.

Tacoma Steel never advised Tacoma Rail that it would not object to such plans.

By way of background, Tacoma Steel is in the business of buying and selling large quantities of steel acquired and sold on an international scale for over 50 years. Prior to Tacoma Steel operating from its present location at 701 E 64th St, Tacoma, WA 98404, a partnership was created by the name of TSSI which purchased the real property upon which Tacoma Steel presently operates on May 17, 1993. The partners of TSSI consisted of the shareholders holding an interest at the time of acquisition of the real property. Thereafter the partners created the limited liability company, TSSI LLC and recorded its Certificate of Formation on December 29, 1998. The real property was conveyed from TSSI to TSSI LLC on December 29, 1998.

After acquisition, the present Tacoma Steel facility was built and commenced operation in early 2000. As part of the build out, Tacoma Steel was instrumental in causing an existing rail switch and siding to be extended into the warehouse at the site for the purpose of loading and unloading rail cars delivered by Tacoma Eastern Rail.

The Line on belief in the past was not only used to service Tacoma Steel but had other commercial uses, as well. By way of illustration, the Line offered rail service for tourism including rail service to Mt. Rainier.

Moreover, the Line may be used in the future by TSA rail service to service the public in East Pierce County. The current census status reveals that there are 365,340 homes in Pierce County. If the Line is abandoned, it could cut off the potential for TSA rail service to the East Pierce County, while the West and Central parts of the County will be serviced by TSA rail.

Over the years, the Line was used for deliveries to Tacoma Steel including in 2007, pursuant to Tacoma Steel's contract with the Department of Defense, when there were as many as ten (10) carloads loaded utilizing this rail service.

It is without question that the Line is not only an efficient means of transporting large loads of steel but has great value for Tacoma Steel and adds to the value of the real property for TSSI LLC, as well.

The Covid crisis detrimentally affected domestic steel transactions due to lack of domestic availability, and much of the product acquisitions shifted to Asia, specifically, Korea. There is nothing to suggest that the Line will not be utilized in the future based upon the negotiation of future domestic steel transactions.

It is Tacoma Steel's understanding that this Petition for exemption is part of a larger plan in which much of the rail line servicing Pierce County, outside the City of Tacoma limits will be sold to another carrier. Thus, with the pending transaction, which according to Tacoma Steel's understanding is to occur in June 2023, the City desires to stop its service through the City of Tacoma. It is assumed this request for a discontinuance is part of a budget cutting plan, but as noted, cutting the Line may result in cutting off the potential of TSA rail service to East Pierce County.

To emphasize that point in a conversation between Keith Klein and Alan Matheson, Assistant Superintendent of Tacoma Rail, Mr. Matheson indicated that the dead-end roads stopping at the Line may be extended and that the crossovers may be paved over effectively cutting off the Line. As noted above, once the Line is cut any potential use of the Line to service East Pierce County will end. The cost if the Line is

cut to develop a new line certainly mitigates against the potential for an alternative TSA rail service being established to service East Pierce County.

While Tacoma Steel and TSSI, LLC have clear interests in wanting the service to continue, it is respectfully suggested that there is a strong public interest in maintaining the service, as well.

While it is anticipated that Tacoma Rail will argue that even if the Line is abandoned or cut, it could be reconnected in the future, practically speaking, it is respectfully argued that once that Line is cut or abandoned, it will never be reconnected again.

The record has not been sufficiently developed for the Board to decide on an expedited basis whether to grant the Petition. For the foregoing reasons, it is respectfully requested that the Board deny the contemporaneous Petitions filed by Tacoma Rail and Tacoma Rail Mountain Division.

Date: April 12, 2023

Respectfully submitted,

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By: /s/DAVID M. TALL

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**ATTORNEYS FOR TACOMA
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Certificate of Service

49 C.F.R. § 1104.12 – Service of Pleadings

I certify that I have this day, transmitted for services, copies of document upon all parties of record in this proceeding, by the method identified below:

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Washington State Department of Transportation Attn: Ron Pate, Director, Rail, Freight and Ports Division 310 Maple Park Avenue SE PO Box 47300 Olympia, WA 98504-7300	Served by: Priority Mail Express
Military Surface Deployment & Distribution Command Transportation Engineering Agency Attn: SDTE-SA (Railroads for National Defense) 1 Soldier Way, Bldg. 1900W Scott AFB, IL 62225-5067	Served by: Priority Mail Express
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Date: April 12, 2023

/s/ *Brittany Ferguson*
Brittany Ferguson
Paralegal, Oseran Hahn P.S.